

# **CAMPBELL COUNTY SCHOOLS**

## **PARENT NOTIFICATIONS**

**2008-2009**

The Campbell County School Board is committed to a policy of non-discrimination with regard to race, color, sex, age, religion, disability, national origin, or status as a parent.

Si Ud. desea más información, favor de llamar 434-332-3458.

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## **BOARD POLICY MANUAL**

The School Board shall be guided by written policies that are readily accessible to the Board, division employees, students, and citizens. All division policies will be reviewed at least every five years and revised as needed.

A current copy of division policies will be posted on the division's website. The school board will ensure that printed copies of the policies are available as needed to citizens who do not have online access. The superintendent shall ensure that an annual announcement is made in each division at the beginning of the school year and, for parents of students who enroll later in the academic year, at the time of enrollment, advising the public regarding the availability of the policies.

## **STUDENT CONDUCT**

The standards of student conduct are designed to define the basic rules and major expectations of students in the public schools of Campbell County. It is the responsibility of the Campbell County School Board to adopt policy and regulations and the administration to issue regulations establishing rules of conduct for student behavior in order to protect the health, safety and welfare of its students. The local school principal has the responsibility and authority to exercise reasonable judgment in enforcing this Code of Conduct. Principals are responsible for ensuring that all students, staff members, and parents are provided the opportunity to become familiar with this policy.

The superintendent shall issue Standards of Student Conduct, and a list of possible corrective actions for violation of the Standards of Conduct. Each parent of a student enrolled in a public school has a duty to assist the school in enforcing the standards of student conduct and compulsory school attendance in order that education may be conducted in an atmosphere free of disruption and threat to persons or property, and supportive of individual rights. The Standards of Student Conduct, a notice of the requirements of section 22.1-279.3 of the Code of Virginia, 1950, as amended and a copy of the compulsory school attendance law shall be sent to all parents within one calendar month of the opening of schools simultaneously with any other materials customarily distributed at that time. A statement for the parent's signature acknowledging the receipt of the Standards of Student Conduct, the requirements of Va. Code § 22.1-279.3, and the compulsory school attendance law shall also be sent. Parents shall be notified that by signing the statement of receipt, parents are not deemed to waive, but expressly reserve, their rights protected by the consortium or laws of the United States or Virginia. Each school shall maintain records of the signed statements. The school principal may request the student's parent or parents, if both have legal and physical custody, to meet with the principal or his designee to review the School Board's Standards of Student Conduct and the parent's or parents' responsibility to participate with the school in disciplining the student and maintaining order, to ensure the student's compliance with compulsory school attendance law, and to discuss improvement of the child's behavior, school attendance, and educational progress. The administrator of the building should exercise reasonable judgment and consider the circumstances in determining the disciplinary action to be administered.

Each student has the right to expect an educational environment in which he or she can strive to achieve his or her intellectual potential. The student is expected to attend school regularly, be diligent in his/her studies and conduct him/herself in such a way that the rights and privileges of others are not violated. The student is expected to accept and demonstrate the obligation of good citizenship to help prevent problems from happening and help solve problems if they occur.

All parents are expected to assume responsibility for the student's behavior and assist the school in enforcing the Standards of Student Conduct and compulsory school attendance. Parents are also expected to maintain regular communication with school authorities, monitor and require daily attendance, and bring to the attention of the school authorities any problem that affects the student or other children in the school. It is the parents' responsibility to notify the school of any unusual behavior pattern or medical problem that might lead to serious difficulties.

The school principal may notify the parents of any student who violates a School Board policy or the compulsory school attendance requirements when such violation could result in the student's suspension or the filing of a court petition, whether or not the school administration has imposed such disciplinary action or filed such a petition. The notice shall state (1) the date and particulars of the violation; (2) the obligation of the parent to take actions to assist the school in improving the student's behavior and ensuring compliance with compulsory school attendance; (3) that, if the student is suspended, the parent may be required to accompany the student

to meet with school officials; and (4) that a petition with the juvenile and domestic relations court may be filed under certain circumstances to declare the student a child in need of supervision. The principal or his designee shall notify the parent of any student involved in an incident required to be reported to the superintendent and Virginia Board of Education.

No suspended student shall be admitted to the regular school program until such student and his parent have met with school officials to discuss improvement of the student's behavior, unless the school principal or his designee determines that readmission, without parent conference, is appropriate for the student. If a parent fails to comply with the requirements of this policy, the School Board may ask the Juvenile and Domestic Relations Court to proceed against the parent in accordance with the requirements of the Code of Virginia.

Students are subject to corrective action for any misconduct that occurs:

- in school or on school property;
- on a school vehicle;
- while participating in or attending any school sponsored activity or trip;
- on the way to and from school; and
- off school property, when the acts lead to: (1) an adjudication of delinquency pursuant to Va. Code, Section 16.1-305.1 or a conviction for an offense listed in Va. Code, Section 16.1-260, or (2) a charge that would be a felony if committed by an adult.

Unlawful acts which will lead to police notification and may lead to suspension from classes, exclusion from activities, or expulsion include but are not limited to:

- possession or use of alcohol, illegal drugs, including anabolic steroids, or drug paraphernalia;
- selling drugs;
- assault/battery;
- sexual assault;
- arson;
- intentional injury (bullying, fighting);
- theft;
- bomb threats, including false threats, against school personnel or school property;
- use or possession of explosives (see Policy JFCD);
- possession of weapons or firearms (see Policy JFCD);
- extortion, blackmail, or coercion;
- driving without a license on school property;
- homicide;
- burglary;
- sex offenses (indecent exposure, obscene phone calls, sodomy and child molestation);
- malicious mischief;
- shooting;
- any illegal conduct involving firebombs, explosive or incendiary devices or materials, hoax explosive devices or chemical bombs;
- stabbing, cutting or wounding;
- unlawful interference with school authorities including threats;
- unlawful intimidation of school authorities; and
- other unlawful acts including being an accessory to any of these or other unlawful acts.

Any student involved in a reportable drug or violent incident shall participate in prevention and intervention activities deemed appropriate by the Superintendent or his/her designee. Further, any student who has been found to be in possession of or under the influence of drugs or alcohol on school property or at a school sponsored activity may be required to (1) undergo evaluation for drug or alcohol abuse and (2) participate in a drug and/or alcohol treatment program if recommended by the evaluator and if the parent consents.

The superintendent shall issue regulations listing additional actions which may be cause for corrective action and if serious enough or exhibited repeatedly may lead to suspension or expulsion.

The School Board shall biennially review the model student conduct code developed by the Board of Education to incorporate into policy a range of discipline options and alternatives to preserve a safe and non-disruptive environment for effective learning and teaching.

## STANDARDS OF STUDENT CONDUCT

The following are standards of student conduct established by the School Board for all students under its jurisdiction. Consequences shall be determined on the basis of the facts presented in each instance of misconduct in the reasonable discretion of the Board, its designated committees and other appropriate school officials.

1. **Student Dress**  
A student's dress and appearance shall not be such that it causes disruption, distracts others from the educational process or creates a health or safety problem. Wearing of clothes, jewelry, or other apparel or personal belongings that are likely to lead to disruption, advocate violence, alcohol or other drug use and/or distribution; that represent gang activity and/or membership; that advertise obscenities; or that reflect adversely on persons due to race, gender, creed, national origin, physical, emotional, or intellectual abilities; or that are considered to be revealing, promiscuous, provocative, or otherwise inappropriate (such as see-through shirts) is prohibited.
2. **Unexcused Absence or Tardiness**  
Students shall not be absent from or report late to class or school without appropriate parental permission, school permission or an otherwise valid excuse.  
(See Policy JED-R)
3. **Disruptive Conduct**  
Students shall not engage in conduct that is or is intended to be disruptive of any school activity, function or process of the school or is dangerous to the health or safety of students or others. Students shall conduct themselves in an orderly and respectful manner at all times.
4. **Profane, Obscene or Abusive Language and Items**  
Students shall not use language, a gesture, or engage in conduct that is vulgar, profane, obscene or disrupts the teaching and learning environment. Students shall not use, write, create or possess pictures, documents or other tangible items that are vulgar, profane, obscene or disruptive of the teaching and learning environment.
5. **Threats or Intimidation**  
Students shall not make any verbal or physical threat of bodily injury or use of force directed toward another person for the purpose of extortion or for any other reason.
6. **Assault and Battery**  
A student shall not assault or commit battery upon another person. Voluntary fighting resulting in physical injury to another person shall be considered assault and battery.  
  
Physical Assault includes any physical confrontation that may result in no injury, minor injury, or serious injury that includes, but may not be limited to, kicking, shoving, pushing, hitting and fighting.  
  
Battery is the unlawful application of force to the person of another.
7. **Bullying**  
A student, either individually or as a part of a group, shall not harass or bully others. Prohibited conduct includes, but is not limited to, physical intimidation, taunting, name-calling, and insults and any combination of prohibited activities. Prohibited conduct includes verbal conduct consisting of comments regarding the race, gender, religion, physical abilities or characteristics or associates of the targeted person.
8. **Gambling**  
A student shall not bet money or other things of value, or knowingly play or participate in any game involving such a bet, on school property or during any school related activity.
9. **Use and/or Possession of Alcohol, Tobacco, Anabolic Steroids, and Other Drugs**  
A student shall not possess, use, and/or distribute alcohol, tobacco and/or tobacco products, or other drugs on school property, on school buses, or during school activities, on or off school property, or off school grounds if the acts of the student and his/her presence at school will have a direct effect on school discipline or the general safety and welfare of students and staff. This

includes, but may not be limited to, smokeless tobacco, anabolic steroids, look-alike drugs, drug paraphernalia, and any prescription or non-prescription drug not possessed in accordance with Policy JHCD.

A student shall not possess, procure or purchase or attempt to possess, procure, or purchase, or be under the influence of (legal intoxication not required), or use or consume or attempt to use or consume, any of the restricted substances listed in this regulation or what is represented by or to the student to be any of the restricted substances listed in this regulation or what the student believes is any of the restricted substances in this regulation.

This regulation incorporates Policy JFCF.

Restricted Substances include alcoholic drinks, marijuana, narcotic drugs, hallucinogens, stimulants, depressants, and anything else covered by the Drug Control Act referenced below, as well as any abusable glue, paint and similar materials, anabolic steroids and both prescription and non-prescription drugs if they are not taken according to the prescription or directions on the package, and includes anything that a student represents to be a restricted substance or which a student believes is a restricted substance.

In addition to any other consequences which may result, a student who is a member of a school athletic team will be ineligible for two school years to compete in interscholastic athletic competition if the school principal and the division superintendent determine that the student used anabolic steroids during the training period immediately preceding or during the sport season of the athletic team, unless such steroid was prescribed by a licensed physician for a medical condition.

10. **Distribution or Sale of Illegal Drugs or Possession or Distribution with Intent to Sell**  
Students shall not manufacture, give, sell, distribute or possess with intent to give, sell or distribute marijuana or other controlled substance as defined in the Drug Control Act, Chapter 15.1 of Title 54 of the Code of Virginia.
11. **Vandalism**  
Students shall not willfully or maliciously damage or deface any school building or other property owned or under the control of the School Board. In addition, students shall not willfully or maliciously damage or deface property belonging to or under the control of any other person at school, on a school bus or at school-sponsored events.
12. **Defiance of the Authority of School Personnel**  
Students shall comply with any oral or written instructions made by school personnel or volunteers within the scope of their authority as provided by board policies and regulations.
13. **Possession or Use of Weapons or Other Dangerous Articles**  
Students shall not have in their possession any type of unauthorized firearm or other article which may be used as a weapon, regardless of whether it is commonly accepted as such. This regulation incorporates Policy JFCD.
14. **Theft**  
A student shall not intentionally take the personal property of another person without consent under duress, threat or otherwise.
15. **Behavior on School Bus**  
Students shall not behave in a disruptive manner or otherwise violate these Standards of Conduct while waiting for a school bus, while on a school bus or after being discharged from a school bus.
16. **Cheating and Lying**  
Students shall not cheat, plagiarize or knowingly make false statements with respect to any assigned school work or tests. Students shall not lie or misrepresent to any teacher, administrator, or other person any fact, nor shall any student change or alter any school record, or official document, intending to deceive or misrepresent any fact.

17. **Trespass**  
The student shall not trespass on school property or use school facilities without proper authority or permission, or during a period of suspension or expulsion.
18. **Gang Activity**  
A student shall not engage in gang activities as defined in Policy JFCE, incorporated by reference.
19. **Harassment**  
A student shall not harass another student or any school employee, volunteer, student teacher or any other person present in school facilities or at school functions in violation of Policy JFHA/GBA Sexual Harassment/Harassment Based on Race, National Origin, Disability and Religion.
20. **Possession of wireless communications devices (cell phones, pagers, PDA's, wireless internet connection devices, or any similar device) is prohibited unless kept and used as set out in this policy. Such devices are contraband subject to confiscation and the student shall be subject to imposition of other penalties.**  
  
Possession of such devices by a student is allowed **only** if such device is kept turned off and kept out of sight inside a pocket, book bag, purse, or similar container. Such devices shall not be displayed, used, or allowed to emit any ring tone or other noise on school grounds during school hours or during school transportation. While participating in school sponsored events outside of school hours such devices may be used only with the prior consent of the coach or school official in charge.  
  
Possession of such devices by a student is prohibited with no exceptions within the school building of Fray Educational Center.
21. **Reports of Conviction or Adjudication of Delinquency Pursuant to § 16.1-305.1**  
Students convicted or adjudicated delinquent of an offense listed in the Code of Virginia, 1950 as amended, § 16.1-305.1, may be suspended or expelled.
22. **Laser Pointers**  
Students shall not have in their possession laser pointers.
23. **Acceptable Use of the Internet**  
Students shall abide by the Campbell County School Division's Acceptable Computer Use Policy and Regulation. (See Policies IIBEA, IIBEAA, IIBEA-E and IIBEA-E2)
24. **Felony Charges**  
Students charged with any offense, wherever committed, that would be a felony if committed by an adult may be disciplined and/or required to participate in prevention/intervention activities.
25. **Bomb Threats**  
Students shall not engage in any illegal conduct involving firebombs, explosive or incendiary materials or devices or hoax explosive devices or chemical bombs as defined in the Code of Virginia. Moreover, students shall not make any threats or false threats to bomb school personnel or school property.
26. **Hazing**  
Students shall not engage in hazing.

Hazing means to recklessly or intentionally endanger the health or safety of a student or students or to inflict bodily harm on a student or students in connection with or for the purpose of initiation, admission into or affiliation with or as a condition for continued membership in a club, organization, association, fraternity, sorority, or student body regardless of whether the student or students so endangered or injured participated voluntarily in the relevant activity.

The principal of any school at which hazing which causes bodily injury occurs shall report the hazing to the local Commonwealth Attorney. Hazing, as defined above, is a Class 1 misdemeanor which may be punished by confinement in jail for up to 12 months and a fine of up to \$2,500, or both, in addition to any disciplinary consequences which may be imposed under this

policy. In addition, any person receiving bodily injury by hazing has a right to sue, civilly, the person or persons guilty thereof, whether adults or infants. See Va. Code § 18.2-56.

27. Other Conduct

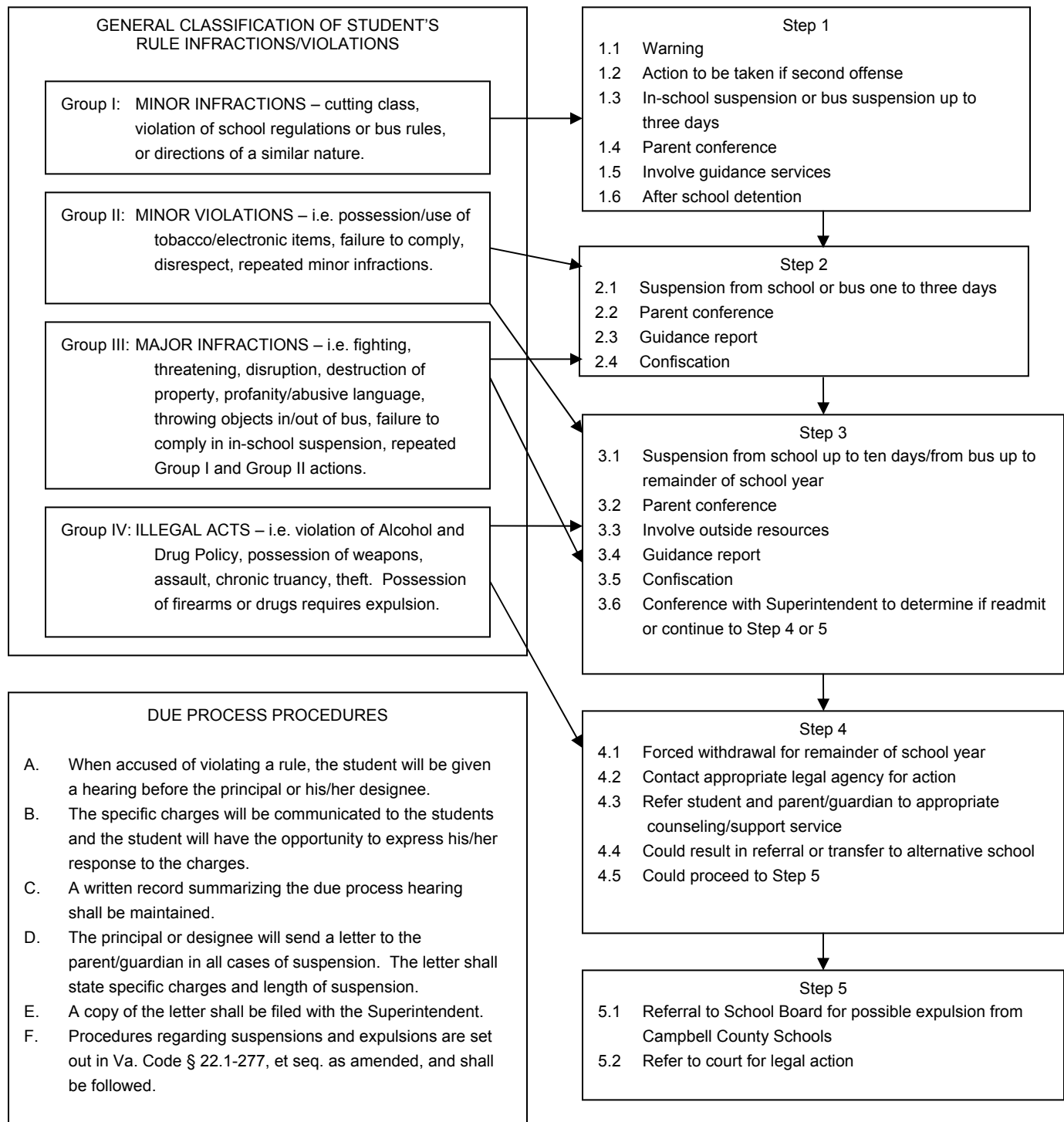
In addition to these specific standards, students shall not engage in any conduct which materially and substantially disrupts the ongoing educational process or which is otherwise a violation of federal, state or local law.

### CORRECTIVE ACTIONS

The following corrective actions are among those available to the school administration for violation of the Student Code of Conduct. Each offense shall be considered fully in determining reasonable corrective actions.

1. Counseling
2. Admonition
3. Reprimand
4. Loss of privileges, including access to the School Division's computer system
5. Parental conferences
6. Tasks or restrictions assigned by the principal or his designee
7. Detention after school or before school
8. Suspension from school-sponsored activities or events prior to, during, or after the regular school day
9. In-school suspension
10. Out-of-school suspension
11. Referral to an alternative education program
12. Notify legal authority where appropriate
13. Recommendation for expulsion
14. Mandatory expulsion for bringing a firearm onto school property or to a school-sponsored activity or use or possession of a controlled substance, imitation controlled substance or marijuana, as defined in Chapter 34 of Title 54.1 and § 18.2-247 of the Code of Virginia on school property or at a school sponsored activity
15. Evaluation for alcohol or drug abuse
16. Participation in a drug, alcohol or violence intervention, prevention or treatment program

# CAMPBELL COUNTY SCHOOLS DISCIPLINE PROCEDURES AND FLOWCHART



## SEARCH OF LOCKERS, DESKS, VEHICLES ON SCHOOL PROPERTY, PERSONS

The principal may search a student's locker, desk, vehicle (while on school property), clothing, persons, or other belongings. Such patrols and searches may be conducted without notice, without student consent, and without a search warrant. These searches may be conducted under one or more of the following circumstances:

- A. When the students have been informed in advance that under School Board regulations desks, lockers, vehicles, clothing, persons or other belongings may be inspected if facts exist which give the administration reasonable suspicion that articles and materials exist which would be injurious to students or are illegal or in violation of School Rules and Regulations. Notice is given to all students by adoption of this policy.
- B. When facts exist which give the administration reasonable suspicion that articles and materials exist which are likely to pose a threat to the maintenance of discipline and order in the school or which are illegal or in violation of School Rules and Regulations.
- C. When the area to be searched is under school control or where there is no reasonable expectation of privacy. Examples are lockers, desks, and vehicles on premises. These will be searched at any time without notice.
- D. If a property conducted search yields illegal or contraband materials, such findings will be turned over to proper legal authorities for ultimate disposition.
- E. A student's failure to permit searches and seizures as provided in this policy will be considered grounds for disciplinary action.

## VIDEOTAPING

No student shall photograph, videotape, sound record or cause to be similarly recorded any student or group of students; or employee or group of employees during the school day on the school premises or during a school activity without the prior consent of a professional staff member of the school attended by the students.

## STUDENT SUSPENSION/EXPULSION

### I. Definitions

As used in this Policy,

"Alternative education program" shall include, but shall not be limited to, night school, adult education, or another education program designed to offer instruction to student for whom the regular program of instruction may be inappropriate.

"Destructive device" means (1) any explosive, incendiary, or poison gas, bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or other similar device; (2) any weapon, except a shotgun or a shotgun shell generally recognized as particularly suitable for sporting purposes, by whatever name known that will, or may be readily converted to, expel a projectile by the action of an explosive or other propellant, and that has any barrel with a bore of more than one-half inch in diameter that is homemade or was not made by a duly licensed weapon manufacturer, any fully automatic firearm, any sawed-off shotgun or sawed-off rifle as defined in Va. Code §18.2-299 or any firearm prohibited from civilian ownership by federal law; and (3) any combination of parts either designed or intended for use in converting any device into any destructive device described herein and from which a destructive device may be readily assembled. "Destructive device" shall not include any device that is not designed or redesigned for use as a weapon, or any device originally designed for use as a weapon and that is redesigned for use as a signaling, pyrotechnic, line-throwing, safety, or other similar device, nor shall it include any antique firearm as defined in subsection G of Va. Code § 18.2-308.2.2.

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

“Exclusion” means a 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 thirty 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.

“Firearm” means any weapon prohibited on school property or at a school-sponsored activity pursuant to Va. Code § 18.2-308.1, or (1) any weapon, including a starter gun, that will, or is designed or may readily be converted to, expel single or multiple projectiles by the action of an explosion of a combustible material; (2) the frame or receiver of any such weapon; or (3) any unloaded firearm in a closed container. “Firearm” does not include any pneumatic gun as defined in this policy.

“Long-term suspension” means any disciplinary action whereby a student is not permitted to attend school for more than ten school days but less than 365 calendar days.

“One year” means 365 calendar days as required in federal regulations.

“Pneumatic Gun” means any implement, designed as a gun, that will expel a BB or a pellet by action of pneumatic pressure. “Pneumatic Gun” includes a paintball gun that expels by action of pneumatic pressure plastic balls filled with paint for the purpose of marking the point of impact.

“School property” means any real property owned or leased by the school board or any vehicle owned or leased by the school board or operated by or on behalf of the school board.

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

## II. Suspensions and Expulsions of Students Generally

Pupils may be suspended or expelled from attendance at school for sufficient cause.

Any student for whom the division superintendent of the school division in which the student is enrolled has received a report pursuant to Va. Code § 16.1-305.1 of an adjudication of delinquency or a conviction for an offense listed in subsection of G of Va. Code § 16.1-260 may be suspended or expelled from school attendance.

The authority of teachers to remove students from their classes in certain instances of disruptive behavior shall not be interpreted to affect the operation of this Policy.

## III. Short-Term Suspensions

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. In the case of any pupil whose presence poses a continuing danger to persons or property, or whose presence is 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 shall be given as soon as is practical 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 guardian 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 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 shall be final.

Any oral or written notice to the parent of a student who is suspended from school attendance for not more than ten days shall include notification of the length of the 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 the expiration of the suspension. The costs of any community-based educational program, or alternative education program or educational option, which is not a part of the educational program offered by the school division, shall be borne by the parent of the student.

#### IV. Long-Term Suspension and/or Expulsion

If the principal finds there is substantial evidence that the student has committed such an offense, the principal shall suspend said student for ten (10) days or less, pending a hearing with the division superintendent. The principal will advise the student and his parents or guardians in writing of the pending charges and provide the student with an opportunity to refute said charges.

The division superintendent or his designee shall provide an opportunity for a due process hearing to determine if there is substantial evidence of a violation of school rules, regulations, and policies necessary to suspend. This hearing should be held within 72 hours after the beginning of active suspension, if practicable, in the discretion of the superintendent.

In accordance with Campbell County School Board policy, the division superintendent or his designee, after a hearing and finding a violation, shall suspend said student for a period of 10-90 school days, or shall refer the student to the school board for expulsion.

The superintendent shall provide written notice to the student and his parents or guardians of his decision or proposed action and the reasons therefore and of the right to a hearing before the school board.

The student may appeal a suspension by the superintendent to the school board, which appeal shall be decided by the board within 30 days from formal note of appeal. The request for appeal should be in writing dated as of delivery to the superintendent. If the appeal is not in writing, the superintendent shall confirm the noting of appeal by letter setting out the appeal date and the date of hearing. The student may be represented by counsel before the board. In cases of expulsion, the school board must confirm or disapprove of the proposed expulsion regardless of whether the student has exercised the right to a hearing.

For the purposes of suspension and expulsion herein, the superintendent designee shall be a (1) trained hearing officer or (2) 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.

In cases of suspension, the written notice of a suspension for more than ten days shall include notification of the length of the suspension and shall provide information concerning the availability of community-based educational, alternative education, or intervention programs. Such notice shall also state that the student is eligible to return to regular school attendance upon the expiration of the suspension or to attend an appropriate alternative education program approved by the school board during or upon the expiration of the suspension. The costs of any community-based educational, alternative education, or intervention program that is not a part of the educational program offered by the school division that the student may attend during his suspension shall be borne by the parent of the student.

In cases of expulsion, the written notice given to the pupil and his parent shall include notification of the length of the expulsion and shall provide information to the parent of the student concerning the availability of community-based educational, training, and intervention programs. The notice shall also state whether or not the student is eligible to return to regular school attendance, or to attend an appropriate alternative education program approved by the school board, or an adult education program offered by the school division, 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 his expulsion shall be borne by the parent of the student.

Nothing herein shall be construed to prohibit the school board from permitting or requiring students suspended or expelled pursuant to this policy to attend an alternative education program provided by the school board for the term of such suspension.

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 parent of such student that the student may petition the school board for readmission to be effective one calendar year from the date of his expulsion, and of the conditions, if any, under which readmission may be granted.

The school board establishes the following schedule pursuant to which such students may apply and reapply for readmission to school: The student may apply for readmission to school in writing no later than sixty (60) calendar days prior to one calendar year from the date of his/her expulsion. The school board shall conduct any hearing and rule on this initial petition prior to one calendar year from the date of expulsion. A subsequent petition for readmission cannot be filed by the student any earlier than six (6) months after the board issues its ruling without approval of the board.

#### Conduct Giving Rise to Expulsion

Recommendations for expulsions for actions other than those specified below shall be based on consideration of the following factors:

- the nature and seriousness of the conduct;
- the degree of danger to the school community;
- the student's disciplinary history, including the seriousness and number of previous infractions;
- the appropriateness and availability of an alternative education placement or program;
- the student's age and grade level;
- the results of any mental health, substance abuse, or special education assessments; and
- the student's attendance and academic records.

No decision to expel a student shall be reversed on the grounds that such factors were not considered. Nothing in this subsection shall be deemed to preclude a school board from considering any of the factors listed above as "special circumstances" for purposes of expulsions discussed in the following subsections.

The Campbell County School Board has identified the following student violations which warrant specific attention by school administrators:

1. possession or use of controlled drugs;
2. distribution of controlled drugs or imitation controlled drugs;
3. possession or use of alcohol;
4. possession or use of weapons or other dangerous instruments;
5. threatening and/or inflicting bodily harm on teachers or administrators;
6. chronic truancy and repeated violations of less serious infractions than the above five;
7. any act deemed a felony or Class 1 misdemeanor under the Code of Virginia.

#### Firearms

The school board shall expel from school attendance for a period of not less than one year any student whom such school board has determined to have possessed a firearm on school property or at a school-sponsored activity as prohibited by Va. Code § 18.2-308.1, or to have possessed a firearm or destructive device as defined in this policy, or a firearm muffler or firearm silencer, or a pneumatic gun as defined in this policy on school property or at a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board may, however, determine, based on the facts of a particular situation, that special circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion is appropriate.

The exemptions set out in Va. Code § 18.2-308 regarding concealed weapons shall apply, *mutatis mutandis*, to the provisions of this policy. The provisions of this policy shall not apply to persons who possess such firearm or firearms or pneumatic guns as a part of the curriculum or other programs

sponsored by the schools in the school division or any organization permitted by the school to use its premises or to any law-enforcement officer while engaged in his duties as such.

#### Drug Offenses

The school board shall expel from school attendance any student whom the school board has determined to have brought a controlled substance, imitation controlled substance, or marijuana as defined in Va. Code § 18.2-247 onto school property, to a school-sponsored activity on a school bus or within the 1000 foot drug free zone. The school board may, however, determine, based on the facts of the particular case, that special circumstances exist and another disciplinary action is appropriate.

#### V. Alternative Education Program

The school board may require any student who has been (1) charged with an offense relating to the laws of Virginia, or with a violation of school board policies, on weapons, alcohol or drugs, or intentional injury to another person; (2) found guilty or not innocent of an offense relating to Virginia's laws on weapons, alcohol, or drugs, or of a crime that resulted in or could have resulted in injury to others, or of an offense that is required to be disclosed to the superintendent of the school division pursuant to Va. Code § 16.1 260.G.; (3) found to have committed a serious offense or repeated offenses in violation of school board policies; (4) suspended pursuant to Va. Code § 22.1-277.05; or (5) expelled pursuant to Va. Code §§ 22.1-277.06, 22.1-277.07, or 22.1-277.08 or subsection B of Va. Code § 22.1-277, to attend such an alternative education program. The school board may require such student to attend such programs regardless of where the crime occurred. The school board may require any student who has been found to have been in possession of, or under the influence of, drugs or alcohol on a school bus, on school property, or at a school-sponsored activity in violation of school board policies, to undergo evaluation for drug or alcohol abuse, or both, and, if recommended by the evaluator and with the consent of the student's parent, to participate in a treatment program.

The division superintendent or his designee may require students to attend an alternative education program consistent with the provisions of this policy after (i) written notice to the student and his parent that the student will be required to attend an alternative education program and (ii) 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 placement. The decision of the superintendent or his designee regarding such alternative education placement shall be final unless altered by the school board, upon timely written petition, asking review of the record filed by the student or parent in the office of the superintendent or designee within seven (7) days of the decision. The school board shall give a decision within thirty (30) days of the petition. No hearing shall be required. (Ref. V.C.A. § 22.1-277.2:1.)

As used herein, "charged" means that a petition or warrant has been filed or is pending against a pupil.

#### VI. Reporting

- A. Except as may otherwise be required by federal law, regulation, or jurisprudence, reports shall be made to the division superintendent and to the principal or his designee on all incidents involving
- (1) the assault, or assault and battery, without bodily injury of any person on a school bus, on school property, or at a school-sponsored activity;
  - (2) the assault and battery which results in a bodily injury, sexual assault, death, shooting, stabbing, cutting, or wounding of any person or stalking of any person as described in Va. Code § 18.2-60.3, on a school bus, on school property, or at a school-sponsored activity;
  - (3) any conduct involving alcohol, marijuana, a controlled substance, imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity; including the theft or attempted theft of student prescription medications;
  - (4) any threats against school personnel while on a school bus, on school property, or at a school-sponsored activity;
  - (5) the illegal carrying of a firearm as defined in Va. Code § 22.1-277.07 onto school property;

- (6) any illegal conduct involving firebombs, explosive materials or devices, or hoax explosive devices, as defined in Va. Code § 18.2-85, or explosive or incendiary devices, as defined in Va. Code § 18.2-433.1, or chemical bombs, as described in Va. Code § 18.2-87.1, on a school bus, on school property, or at a school-sponsored activity;
  - (7) any threats or false threats to bomb, as described in Va. Code § 18.2-83, made against school personnel or involving school property of school buses;
  - (8) the arrest of any student for an incident occurring on a school bus, on school property, or at a school-sponsored activity, including the charge therefore; and
  - (9) any illegal possession of weapons, alcohol, drugs, or tobacco products.
- B. The division superintendent and the principal or his designee shall receive reports made by local law enforcement authorities on offenses, wherever committed, by students enrolled at the school if the offense would be a felony if committed by an adult or would be a violation of the Drug Control Act, Va. Code § 54.1-3400 et seq., and occurred on a school bus, on school property, or at a school-sponsored activity, or would be an adult misdemeanor involving any incidents described in the clauses (1) through (8) of subsection VI.A. of this policy, and whether the student is released to the custody of his parent or, if 18 years of age or more, is released on bond. A superintendent who receives notification that a juvenile has committed an act that would be a crime if committed by an adult pursuant to subsection G of Va. Code § 16.1-260 shall report such information to the principal of the school in which the juvenile is enrolled.
- C. The principal or his designee shall submit a report of all incidents required to be reported pursuant to subsection VI.A. (1-8) of this policy to the superintendent of the school division. The division superintendent shall annually report all such incidents to the Department of Education.
- In submitting reports of such incidents, principals and division superintendents shall accurately indicate any offenses, arrests, or charges as recorded by law-enforcement authorities and required to be reported by such authorities pursuant to subsection VI.B. of this policy.
- D. The principal or his designee shall also notify the parent of any student involved in an incident required by this subsection to be reported, regardless of whether disciplinary action is taken against such student or the nature of the disciplinary action. Such notice shall relate to only the relevant student's involvement and shall not include information concerning other students.
- E. Whenever any student commits any reportable incident as set forth in this subsection, such student shall be required to participate in such prevention and intervention activities as deemed appropriate by the superintendent or his designee. Prevention and intervention activities shall be identified in the local school division drug and alcohol violence prevention plans developed pursuant to the federal Improving America's Schools Act of 1994 (Title IV-Safe and Drug-Free Schools and Communities Act).
- F. Except as may otherwise be required by federal law, regulation, or jurisprudence, a principal shall immediately report to the local law-enforcement agency any act enumerated in clauses (2) through (7) of subsection VI.A. of this policy that may constitute a criminal offense and may report to the local law enforcement agency any incident described in clause (1) of subsection VI.A. of this policy.
- In addition, except as may be prohibited by federal law, regulation, or jurisprudence, the principal shall also immediately report any act enumerated in clauses (2) through (5) of subsection VI.A. of this policy that may constitute a criminal offense to the parents of any minor student who is the specific object of such act. Further, the principal shall report that the incident has been reported to local law-enforcement as required by law and that the parents may contact local law-enforcement for further information, if they so desire.
- G. For purposes of this section, "parent" or "parents" means any parent, guardian or other person having control or charge of a child.

## VII. Police Interrogation

Law enforcement officers shall be allowed to question the student while he is under the school's authority provided that:

- A. The parents of the child are contacted and have given permission for such questioning, or, in the event that the parents cannot be located, the principal or his designee is present to protect the interests of the student.
- B. A private room is furnished for the questioning with the principal or his designee present. Police officers shall not be authorized to take the student out of class. The student is presumed innocent unless judge and/or jury decide to the contrary.
- C. The principal shall maintain information derived from the questioning in strictest confidence unless law enforcement procedures shall require otherwise.
- D. A student shall not be taken from the school unless formally charged and legally arrested. Parents of the arrested student shall be notified immediately.

This policy shall not apply to a Resource Officer who is investigating an incident which occurred at school, on a school bus, or at a school function, as long as the principal or his designee is present during the questioning.

This policy also shall not apply to a Child Protective Service investigation when a child is the alleged victim.

## VIII. Readmission of Suspended and/or Expelled Students

Any student who has been suspended from a school of this division is not eligible to attend any other school within the division until eligible to return to his or her regular school.

Any student who has been expelled or suspended for more than thirty days from attendance at school by a school board or a private school in this Commonwealth or in another state or for whom admission has been withdrawn by a private school in this Commonwealth or in another state may be excluded from attendance in the Campbell County Schools. In the case of a suspension of more than thirty days, the term of the exclusion may not exceed the duration of such suspension.

In excluding any such expelled student from school attendance, the local school board may accept or waive any or all of any conditions for readmission imposed upon such student by the expelling school board pursuant to Va. Code § 22.1-277.06. The excluding school board shall not impose additional conditions for readmission to school.

No suspended student shall be admitted to the regular school program until such student and his parent have met with school officials to discuss improvement of the student's behavior, unless the school principal or his designee determines that readmission, without parent conference, is appropriate for the student.

If the parent fails to comply with this policy, the school board may ask the Juvenile and Domestic Relations Court to proceed against the parent for willful and unreasonable refusal to participate in efforts to improve the student's behavior.

Upon the expiration of the exclusion period for an expulsion or a withdrawal of admission, which period shall be established by the school board, or superintendent or his designee, as the case may be at the relevant hearing, the student may petition the school board for admission. If the petition for admission is rejected, the school board shall identify the length of the continuing exclusion period and the subsequent date upon which such student may petition the school board for admission.

The school board may permit students excluded pursuant to this subsection to attend an alternative education program provided by the school board for the term of such exclusion.

## IX. Disciplining Students with Disabilities

Students with disabilities shall be disciplined in accordance with Policy JGDA.

## **USE OF BREATH ALCOLYZER TEST**

School administrators may administer a breath alcolyzer test when there is reasonable cause to suspect that a student has consumed alcohol. If a student refuses to submit to the breath alcolyzer test, when ordered to do so, the act of refusal can be treated as an act of insubordination. With corroborative circumstances, a refusal may allow an inference of alcohol consumption.

## **TOBACCO-FREE SCHOOL FOR STAFF AND STUDENTS**

Smoking, chewing or any other use of any tobacco products by staff, students, and visitors is prohibited on school property.

For purposes of this policy,:

1. "School property" means:
  - a. All interior portions of any building or other structure used for instruction, administration, support services, maintenance or storage.
  - b. Any indoor facility or portion of such facility owned or leased or contracted for and used for the provision of regular or routine health care, day care, or early childhood development (Head Start) services.
  - c. All vehicles used by the division for transporting students, staff, visitors or other persons.
2. "Tobacco" includes cigarettes, cigars, pipe tobacco, snuff, chewing tobacco and all other kinds and forms of tobacco prepared in such manner as to be suitable for chewing, smoking or both. "Tobacco" includes cloves or any other product packaged for smoking.
3. "Smoking" means the carrying or holding of any lighted pipe, cigar, or cigarette of any kind, or any other lighted smoking equipment, or the lighting, inhaling, or exhaling of smoke from a pipe, cigar, or cigarette of any kind.

Staff and students found to be in violation of this policy shall be subject to appropriate disciplinary action.

## **STUDENT ABSENCES/EXCUSES/DISMISSALS**

### **I. Student Attendance Policy**

Student attendance is a cooperative effort and the School Board shall involve parents and students in accepting the responsibility for good attendance.

Each parent/guardian or person having control or charge of a child within the compulsory attendance age shall be responsible for such child's regular and punctual attendance at school as required under provisions of the law.

A reasonable effort shall be made to contact a parent/guardian of each absent student every day, and to obtain an explanation for the student's absence, where there is no indication that the student's parent is aware of and supports the absence. A log will be kept of call attempts.

Students who are absent must bring a valid note stating the reason for absence upon returning to school. Unexcused absences shall be handled according to regulations issued by the superintendent.

Students shall attend school for a full day unless otherwise excused. Secondary students shall be scheduled for a full school day unless they are enrolled in a cooperative work-study program. All other exceptions to a full day schedule must be approved on an individual basis by the superintendent or designee.

Nothing in this policy shall be construed to limit in any way the authority of any attendance officer or the division superintendent to seek immediate compliance with the compulsory school attendance law.

## II. Compulsory Attendance Procedures

### A. Upon Fifth Absence Without Parental Awareness and Support

If (1) a student fails to report to school for a total of five scheduled school days for the school year, and (2) there is no indication that the student's parent is aware of and supports the absence; and (3) reasonable efforts to notify the parent of the absences have failed, then the Principal or designee shall make a reasonable effort to ensure that direct contact is made with the parent, either in person or through telephone conversation, by the attendance officer to obtain an explanation for the pupil's absence and to explain to the parent the consequences of continued nonattendance. The attendance officer, the pupil, and the pupil's parent shall jointly develop a plan to resolve the pupil's nonattendance. Such plan shall include documentation of the reasons for the pupil's nonattendance.

### B. Upon Sixth Absence Without Parental Awareness and Support

If the pupil is absent an additional day after direct contact with the pupil's parent and the attendance officer has received no indication that the pupil's parent is aware of and supports the pupil's absence, the attendance officer shall schedule a conference within ten school days, which must take place no later than the fifteenth school day after the sixth absence. At the conference, the pupil, his parent, and school personnel, shall meet to resolve issues related to the pupil's nonattendance. Other community service providers may also be included in the conference.

### C. Upon Additional Absence Without Parental Awareness and Support

Upon the next absence after the conference without indication to the attendance officer that the pupil's parent is aware of and supports the pupil's absence, the Principal or designee shall notify the attendance officer or Superintendent who shall enforce the compulsory attendance rules by either or both of the following: (i) filing a complaint with the juvenile and domestic relations court alleging the pupil is a child in need of supervision as defined in § 16.1-228 or (ii) instituting proceedings against the parent pursuant to § 18.2-371 or § 22.1-262. In filing a complaint against the student, the attendance officer shall provide written documentation of the efforts already undertaken to resolve the pupil's absence. If the student's parents have joint physical custody of the student and the school has notice of the custody arrangement, then both parents shall be notified at their last known addresses.

### D. Parental Cooperation in Remediating Excessive Unexcused Absences

It is expected that parents will cooperate with the attendance officer and other school officials to remedy the student's attendance problem. Where direct contact with a parent cannot be made, despite reasonable efforts, or where parents otherwise fail to cooperate in remediating the student's attendance problem, the superintendent or the superintendent's designee may seek immediate compliance with the compulsory school attendance laws. The attendance officer, with the knowledge and approval of the Superintendent, shall institute proceedings against any parent who fails to comply with the requirements of the compulsory attendance laws. Where the complaint arises out of the parent's failure to comply with the requirements of § 22.1-258, the attendance officer shall document the school division's compliance with this Code section.

### E. If steps A-D have been followed and the student continues the practice of unexcused absences to a total of 18 days for the semester, the principal of the school may recommend to the superintendent of schools that the student be dropped from school for the remainder of the semester.

The parent shall be so informed in writing with a copy of the notification sent to the division superintendent of schools. The superintendent will have final authority in determining if the student will be dropped from school.

## III. Attendance Reporting

Student attendance shall be monitored and reported as required by state law and regulations. At the end of each school year, each public school principal shall report to the Superintendent the number of pupils by grade level for whom a conference was scheduled pursuant to Part II (B) above. The Superintendent shall compile this information and provide it annually to the Superintendent of Public Instruction.

## IV. Dismissal Precautions

Principals shall not release a student during the school day to any person not authorized by the student's parent/guardian to assume responsibility for the pupil. Students shall be released only on request and authorization of parent or guardian. The superintendent shall provide procedures for release of pupils who are not residing with or under the supervision of a parent/guardian. The burden of proof on the authority of the person to receive the student is on the requesting party. A formal check-out system shall be maintained in each school.

**REGULATIONS RE: STUDENT ABSENCES/EXCUSES**

## A. Definition of terms regarding attendance

1. Excused absence – An excused absence is any absence due to the following conditions:

- a. Death or serious illness in the immediate family
- b. Subpoenaed court appearance
- c. Medical condition or appointment verified by a physician or dentist
- d. Serious personal illness or exclusion from school for medical reasons
- e. Religious holidays

Students must present proof and a reason for an absence by a statement from the parent(s) or guardian, a statement from a doctor or dentist, or a subpoena. This documentation must be provided on the day the student returns to school and no later than the second day following the student's return to school. The principal will be the judge of the validity of any excuse or documentation. Make-up work is required for all academic work missed.

f. Absences pre-arranged with the principal. The principal will designate these absences as excused or unexcused. A student requesting a pre-arranged absence, shall, prior to being absent, notify the school principal of circumstances requiring absence from school. If the principal designates the absence as excused, it is then the responsibility of the student to secure assignments from teachers, and make provisions of academic requirements.

2. Unexcused absence – Any absence which is not classified as an excused absence shall be classified as unexcused. The student will not be permitted the opportunity for make-up work for any academic assignments missed during an unexcused absence. (This includes time lost from school due to suspension.)

## B. Attendance and Grades

The student's grades may be affected by attendance as follows:

1. lowering daily grades for unexcused absences;
2. lowering test averages by recording a zero for failure to complete required assignments resulting from excused and approved absences;
3. lowering averages by recording a zero for failure to complete required assignments resulting from excused absences; and
4. assignment of a failing grade (65, or the student's average, whichever is lower) for the six weeks grading period to any student who has accumulated six (6) or more unexcused absences during that grading period. This will include students who miss six (6) or more class meetings unexcused for the same course in a six week grading period. The reason for the failing grade also will be communicated on the report card.

**Scholastic Records and Federal Educational Rights and Privacy Act (FERPA) Notification**

- A. The scholastic record for each student is maintained at the school attended. Parents and eligible students have:
1. The right to inspect and review the student's education records within 45 days of the day the school division receives a request for access. The written request for access should be submitted to the principal and should identify the records to be inspected. The principal will make arrangements for access and notify the parent or eligible student of the time and place where the records may be inspected.
  2. The right to request the amendment of the student's education records that the parent or eligible student believes are inaccurate or misleading or otherwise in violation of the student's privacy rights. Parents or eligible students may ask Campbell County Public Schools to amend a record that they believe is inaccurate, misleading, or in violation of the student's privacy or other rights. They should write the school principal, clearly identify the part of the record they want changed, and specify why it is inaccurate, misleading, or in violation of the student's privacy or other rights. If the school division decides not to amend the record as requested by the parent or eligible student, the school division will notify the parent or eligible student of the decision and advise them of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing.
  3. The right to consent to disclosures of personally identifiable information contained in the student's record, except to the extent that FERPA authorizes disclosure without consent. One exception which permits disclosure without consent is disclosure to school officials with legitimate educational interests. A school official is a person employed by the division as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel); a person on the School Board or a person or company with whom the division has contracted to perform a special task (such as an attorney, auditor, medical consultant, or therapist); or a parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks. A school official has a legitimate educational interest if the official needs to review an educational record in order to fulfill his or her professional responsibility. Upon request, the school division discloses education records without consent to officials of another public or private school in which a student seeks or intends to enroll.
  4. The right to file a complaint with the U.S. Department of Education concerning alleged failures of the school system to comply with the requirements of FERPA. The name and address of the Office that administers FERPA is: Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, DC 20202-4605.
  5. The right to request copies of the student's record. The fee for copies is \$.25 per page. The actual cost of copying time and postage will be charged. Campbell County Schools will not charge for search and retrieval of records. There will be no charge for copying an IEP or hearing records as laid forth in the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*.
  6. The right to obtain a copy of the school division's written policies and procedures on the management of education records and the location of these records.
- B. Personally identifiable information in the scholastic record of students may be destroyed by the Campbell County School system five years after:
1. it is no longer educationally useful;
  2. the student graduates from a secondary school;
  3. the student completes a Board of Education adopted program; or
  4. the student leaves school.

- C. Parents/eligible students have a right to be provided a copy of any records being destroyed. Scholastic records may be needed for social security benefits or other purposes. If copies are desired, contact the school your child attends. The following information will be kept permanently in the scholastic records: record data disclosure form; name and address of student; birth date; name and address of parents; program of studies; scholastic work completed; level of achievement (grades, grade point average and class rank); type of diploma; attendance; test data; certificate of immunization; social security number; and citizenship status if other than United States.

The following information is designated as directory information and may be made public to any party including post-secondary institutions, prospective employers, and military recruiters without written consent unless the parent/eligible student notifies the principal to the contrary. Directory information is generally not considered harmful or an invasion of privacy if released. The primary purpose of directory information is to allow the school to include this type of information in certain school publications such as athletic team rosters, playbills, yearbooks, etc.

1. name of student in attendance or no longer in attendance;
2. gender;
3. address;
4. telephone listing;
5. date and place of birth;
6. major field of study;
7. height and weight, if student is a member of an athletic team;
8. dates of attendance;
9. participation in officially recognized activities and sports;
10. degrees or awards;
11. photographs; and
12. other similar information.

Fifteen days from the first day of the school year are allowed for the parent/eligible student to notify the school in writing that a part or all such data shall not be released without prior consent.

Parental consent must be obtained for a child to participate in certain school activities sponsored/funded by the U.S. Department of Education. Provisions are also made for parents to opt their child out of these activities. This applies to surveys regarding political affiliations or beliefs of the student or the student's parents; mental or psychological problems of the student or the student's parents ; sex behavior or attitudes; illegal, anti-social, self-incriminating, or demeaning behavior; critical appraisals of others; legally recognized privileged relationships such as those of lawyers, physicians and ministers; religious practices, affiliations, or beliefs of the student or the student's parents; and income other than required by law. This also applies to the collection, disclosure or use of student information for marketing purposes and certain physical exams and screenings. Parents and eligible students have the right to inspect any survey dealing with the areas of protected survey information listed above, regardless of funding source.

School personnel are authorized to disclose identifying information from a student's education record for the purpose of furthering the ability of the juvenile justice system to effectively serve the student prior to adjudication. Identifying information may be disclosed to attorneys for the Commonwealth, court services units, juvenile detention centers or group homes, mental and medical health agencies, state and local children and family service agencies, and the Department of Juvenile Justice and to the staff of such agencies.

- D. The Building Principal is responsible for the maintenance of student records for students enrolled in each building.

## STUDENT TRANSPORTATION POLICY

The Code of Virginia, Section 22.1-176 states, in part, that “County School Boards may provide transportation of pupils, but nothing herein contained shall be construed as requiring such transportation.” Campbell County Schools provide, free of charge to students, bus transportation to and from school within the student’s attendance area. Transportation is also provided between the home school and other educational facilities operated by Campbell County in which the student is enrolled. Students may be required to meet a bus at an assigned stop up to .5 miles from his/her residence on a state maintained road.

- A. Loading and Unloading  
Each student should be at the bus stop five minutes before scheduled time and stand a safe distance from the highway while waiting. Any students who must cross a road to board or exit a school bus, must walk in front of the bus after receiving the all clear sign from the bus driver. All students are expected to get on and off the bus in an orderly fashion using the hand rail. In addition, students who need to ride a different bus, or get off their bus at a different location, may do so only with proper parent and administrative permission and documentation given to the bus driver prior to departure from school.
- B. Student Conduct on School Buses  
Students riding buses must abide by the same set of school board rules and regulations governing student conduct in school, and are subject to the same disciplinary procedures. Video cameras may be used to monitor student behavior.
- C. Passenger Rules
1. Students are to obey driver promptly and respectfully. Driver has the authority to assign seats.
  2. Students are to keep arms and head inside the bus at all times.
  3. Students are not to throw objects on, from, or at a school bus, another vehicle and/or person.
  4. Students are to hold belongings and not take up seating space with them. (Backpacks, coolers, school projects, etc.)
  5. Students are not to bring glass containers on the bus; all other containers must be in a lunch box or book bag.
  6. Students are not to eat, drink, or chew gum on the bus.
  7. Students are not to use any electronic equipment (radios, CD players, video games, tape recorders, cell phones) on the school bus.
  8. Students are not to use profanity, immoral language or gestures.
  9. Students are to talk in normal conversational voice to students on the same seat.
  10. Students are to take their proper seat and remain seated until place of departure.
- D. Private Transportation by Students  
The use of private transportation by students is permitted under guidelines established by the division superintendent.
1. Student cars
    - a. Principals are authorized to deny students the use of personal vehicles on school property.

- b. Principals are authorized to develop procedures for control of student parking areas on school property, including the right to search student vehicles while on school property. There is to be no expectation of privacy as to any student vehicle on school property and student vehicles are subject to search at any time.
  - c. Principals are authorized to issue and control student parking permits.
  - d. Principals are authorized to develop policies restricting or prohibiting the use of personal vehicles during the school day.
2. Students using transportation in private vehicles to/from school sponsored activities:
- a. A permission form must be signed by the parent/guardian;
  - b. A signed copy of the permission form will be kept on file in the home school;
  - c. Students are subject to appropriate disciplinary action for failing to have a permission form signed by the parent/guardian on file when driving/riding to a school sponsored event in accordance with this section.

### **ACCEPTABLE COMPUTER SYSTEM USE (Policy IIBEA)**

The School Board provides a computer system, including the internet, to promote educational excellence by facilitating resource sharing, innovation and communication. The term computer system includes hardware, software, data, communication lines and devices, terminals, printers, CD-ROM devices, tape drives, servers, mainframe and personal computers, the internet and other internal or external networks.

All use of the Division's computer system must be (1) in support of education and/or research, or (2) for legitimate school business. Use of the computer system is a privilege, not a right. Any communication or material used on the computer system, including electronic mail or other files deleted from a user's account may be monitored or read by school officials.

The Division Superintendent shall establish administrative procedures, for the School Board's approval, containing the appropriate uses, ethics and protocol for the computer system. The procedure shall include:

- a prohibition against use by division employees and students of the division's computer equipment and communications services for sending, receiving, viewing or downloading illegal material via the Internet;
- provisions, including the selection and operation of a technology protection measure for the division's computers having Internet access to filter or block Internet access through such computers, that seek to prevent access to
- child pornography as set out in Va. Code § 18.2-374.1:1 or as defined in 18 U.S.C. § 2256;
- obscenity as defined by Va. Code § 18.2-372 or 18 U.S.C. § 1460; and
- material that the school division deems to be harmful to juveniles as defined in Va. Code § 18.2-390, material that is harmful to minors as defined in 47 U.S.C. §254(h)(7)(G), and material that is otherwise inappropriate for minors;
- provisions establishing that the technology protection measure is enforced during any use of the Division's computers by minors;
- provisions establishing that the online activities of minors will be monitored;
- provisions designed to protect the safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications;
- provisions designed to prevent unauthorized online access by minors, including "hacking" and other unlawful activities by minors online;
- provisions prohibiting the unauthorized disclosure, use, and dissemination of personal information regarding minors: and
- a component of internet safety for students that is integrated in the division's instructional program.

Use of the School Division's computer system shall be consistent with the educational or instructional mission or administrative function of the Division as well as the varied instructional needs, learning styles, abilities and developmental levels of students. The Division's computer system is not a public forum.

Each teacher, administrator, student and parent/guardian of each student shall sign the Acceptable Computer System Use Agreement, IIBEA-E2, before using the Division's computer system. The failure of any student, teacher or administrator to follow the terms of the Agreement, this policy or accompanying regulation may result in loss of computer system privileges, disciplinary action, and/or appropriate legal action.

The School Board is not responsible for any information that may be lost, damaged or unavailable when using the computer system or for any information retrieved via the Internet. Furthermore, the School Board will not be responsible for any unauthorized charges or fees resulting from access to the computer system.

The school division assumes no responsibility for any unauthorized charges or fees as a result of using the computer system, including telephone or long-distance charges.

The Division Superintendent shall submit to the Virginia Department of Education this policy and accompanying regulation biennially.

## **ADMINISTRATIVE PROCEDURES GOVERNING COMPUTER SYSTEM USE (Policy IIBEA)**

The goal of Campbell County Schools in providing Internet, computer and computer network services is to promote educational excellence by facilitating resource sharing, innovation, and telecommunications. (In this policy, "computer" shall include hardware, software, data communication lines and devices, terminals, printers, CD-ROM devices, tape drives, servers, mainframe and personal computers, the internet and any other internal or external network.) Access to computer services is given to staff members and students who utilize the technology resources for educational purposes and who agree to act in a considerate and responsible manner. Access is a privilege, not a right, and it entails responsibilities. These responsibilities include the following:

- I. Communications on computers and on the network are non-confidential in nature within the school system and should not be considered to be private by staff members. E-mail accounts or network/computer storage areas and resources are considered to be property of the school division. Administrators may review files and communications to maintain system integrity and to ensure that users are using the system responsibly and following this policy. Although users should not expect that files stored on division servers will be private, staff members must do everything possible to maintain privacy for other users and are expected to use network resources professionally, responsibly, and ethically. In particular, staff members and students shall not
  - A. post personal information (other than professional information) about themselves or other people on the network or Internet.
  - B. use electronic mail or telecommunications to share confidential information about students or other employees.
  - C. attempt to gain unauthorized access to any computer system or go beyond personal authorized access. This includes logging into the system through another person's account or accessing another person's files.
  - D. misuse or destroy data of another user.
- II. The Internet and computer related resources will be used in Campbell County Schools for educational purposes and legitimate school related activities. In particular, staff members and students shall not
  - A. use network resources for commercial activities, product advertisement, political lobbying, or promotion of specific religious or personal beliefs.
  - B. use the system, including computer equipment and communications services, to send, receive, view, download, access or transmit material that is illegal, profane, obscene, or pornographic; that advocates or constitutes illegal acts; or that advocates violence or discrimination towards other people (i.e., hate literature).

- C. participate in chat room communications or access personal online mail accounts, except for specific instructional purposes, and for students, except as authorized by a teacher.
- D. use resources for any purpose not related to the duties and responsibilities of the user.
- III. All equipment and resources are property of Campbell County Schools and are not placed in classrooms for personal uses. In particular, staff members and students shall not
- A. install or alter software or computer systems without the permission of administrators, network administrators, or the technology staff.
- B. deliberately damage computer hardware or remove it without permission.
- C. borrow, copy, download, or otherwise transmit software and materials without compliance with all terms of a preauthorized licensing agreement or without approval from the network or school administrator or a member of the technology staff.
- D. disrupt networked or non-networked computers by deleting or altering files, by spreading computer viruses, by hacking, or by any other means.
- IV. Because telecommunications has become such an integral part of the sharing of information within the school system, staff members and students are required to check their email accounts on a regular basis. In addition, staff members and students are expected to use technology resources in a considerate and responsible manner, respecting other users. In particular, staff members and students shall not
- A. utilize the Internet and computer related resources for uses that reduce the amount of resources available for other users. Examples include playing music from the Internet, maintaining a high graphics Internet page (e.g., stock market and weather reports) on a screen for long periods, or sending mass mailings without first receiving the consent of the principal.
- B. use obscene, profane, lewd, inflammatory, threatening, or disrespectful language on the system or school computers.
- C. use the system or school computers to harass another person, engage in personal attacks, or post false or defamatory information about a person or organization.
- V. Instructional use of computers and the Internet must take into consideration legal and ethical responsibilities. In particular, staff members and students shall not
- A. infringe on the rights of copyright owners. Anything and everything on the Internet may be copyright-protected whether a copyright symbol is exhibited or not. The law allows limited use of material for educational purposes; however, staff members and students should check with the school's librarian or school administrators if in doubt about the use of material from the Internet.
- B. place on the web server or computers any information that does not comply with the following guidelines:
- student photographs may be included only with parental permission.
  - no student personal information (e.g., phone numbers, addresses, last names, etc.) may be used on school computers, Internet or Intranet web pages without parental permission and permission from a staff member.
  - any web page placed on the web server or computers must be related to an instructional purpose, to an educational function, or to a school activity.
  - staff members and students are responsible for the accuracy and appropriateness of material posted to the web server and on computers. For example, copyrighted material should not be placed on any part of a web page without full compliance with the terms of the copyright.

- VI. The instructional staff has the responsibility of the monitoring and management of student use of computers, the Internet and of network resources. Those responsibilities include the following:
- A. As in any classroom situation, staff members are responsible for the supervision and monitoring of learning activities. Teachers need to be aware of the student's Acceptable Use Policy and should supervise student use of technology equipment and the Internet. Staff members shall ensure that appropriate monitoring occurs to protect the safety and security of minors when using electronic mail, chat rooms and other forms of direct electronic communications.
  - B. Staff members assigning specific student Internet use will preview network resources in order to determine which are applicable to the curricular needs of the assignment and the appropriate developmental level of the student.
  - C. Staff members are expected to remind students of proper network etiquette and of the Acceptable Use Policy for the Internet and network resources.
  - D. Staff members shall ensure that the technology protection measure selected by the Director of Technology so as to comply with state and federal law, shall be enforced during any use of the school division's computers by minors. The purpose of the technology protection measure shall be to filter or block Internet access so as to prevent access to:
    1. child pornography as set out in Virginia Code section 18.2-374.1:1 or as defined in 18 U.S.C. 2286;
    2. obscenity as defined by Virginia Code section 18.2-372 or 18 U.S.C. 1460; and
    3. material that the school system deemed to be harmful to juveniles as defined in Virginia Code section 18.2-396, material that is harmful to minors as defined in 47 U.S.C. 254(h)(7)(G) and material that is otherwise inappropriate for minors.

Specifically, the following technologies have been selected:

1. Cisco Pix 525 Device – Monitors incoming data to our WAN and blocks traffic that we have defined as harmful;
  2. Canit – Filters incoming emails and blocks undesirable email;
  3. Dans Guardian – Is a filter on internet traffic that blocks data that we have defined as unwanted;
  4. Allot's NetEnforcer – Controls, monitors, and throttles the type and amount of traffic that flows on our WAN and LANs; and
  5. Norton Antivirus – Scans each machine connected to our networks weekly for viruses and other destructive software.
- VII. The School Board makes no warranties for the computer system it provides. The School Board shall not be responsible for any damages from the use of the computer system, including loss of data, non-delivery of information or service interruptions. The school division denies any responsibility for the accuracy or quality of information obtained through the computer system. The users (staff members and students) agree to indemnify the School Board for any losses, costs or damages incurred by the School Board relating to or arising out of any violation of these procedures.
- VIII. Computer system security is a high priority for the school division. If any student or staff member identifies a security problem, such individual shall notify the building principal or system administrator immediately. All users shall keep their passwords confidential and shall follow computer virus protection procedures.

## **GUIDANCE PROGRAM**

Campbell County offers a comprehensive guidance and counseling program to all students in grades K-12. The curriculum focuses on skill development in stated academic, career, and personal/social areas. Objectives taught and materials used may be viewed by contacting the school principal. After reviewing the curriculum and materials, parents may request that their child be removed from all or part of the personal/social portion of the program by completing a form available at the school. If parents exercise the option of removing their child from the personal/social portion of the guidance and counseling program, the request must be made each school year.

## **FAMILY LIFE EDUCATION**

Campbell County offers a comprehensive family life education curriculum to all students in grades K-10. Objectives taught and materials used in the program may be reviewed by contacting your child's school principal. After reviewing the objectives, you may request that your child be removed from part or all of the program by completing a form available at the school. If you exercise the option of removing your child from the program, you must make your request each year.

## STANDARDS OF LEARNING

The Virginia Standards of Learning (SOL) outline the basic knowledge and skills Virginia school children are taught as they progress from kindergarten through twelfth grade, in the four essential academic subjects of English, math, science and social studies (history, geography and government).

A copy of the grade level Standards of Learning for each student in grades K-12 is available on the Campbell County webpage at <http://www.campbell.k12.va.us>. You can request a print copy from the principal of the school your child attends.

Each student in grades 3 - 8 will take SOL tests for the student's respective grade. Students enrolled in high school courses will take all applicable end-of-course SOL tests. Accommodations and/or exemptions may be appropriate for students with disabilities. The SOL tests will be administered in the spring. In addition, high school end-of-course SOL retests will be offered in the summer and fall. The results of the SOL tests will be one criterion used in determining the promotion/retention status for students in grades 3 - 8. Students who achieve a passing score on an end-of-course SOL test and pass the course shall be awarded a verified unit of credit in that course. Students shall earn a specified number of verified credits to graduate in addition to meeting other graduation requirements (See Graduation Requirements).

### Standards of Learning Tests

	Writing	English	History	Mathematics	Science
<b>Grade 3</b>		X	X	X	X
<b>Grade 4</b>		X	X	X	
<b>Grade 5</b>	X	X	X	X	X
<b>Grade 6</b>		X	X	X	
<b>Grade 7</b>		X	X	X	
<b>Grade 8</b>	X	X		X	X

### High School End-of-Course Standards of Learning Tests

English: Writing

English: Reading, Literature, and Research

English 8 Retest

World History and Geography, Part I

World History and Geography, Part II

United States History

Earth Science

Biology

Chemistry

Algebra I

Geometry

Algebra II

Math 8 Retest

Any student who fails to achieve a passing score on all of the Standards of Learning assessments for the relevant grade level in grades three through eight or who fails an end-of-course test required for the award of a verified unit of credit shall be required to attend a remediation program or to participate in another form of remediation. Division superintendents shall require such students to take special programs of prevention, intervention, or remediation, which may include attendance in public summer school programs, in accordance with clause (ii) of subsection A of §22.1-254 and § 22.1-254.01.

## GRADUATION INFORMATION

- A. Certificate of Program Completion - A student who has successfully completed a prescribed program of study defined by the local school board but has not qualified for any diploma shall be awarded a Certificate of Program Completion.
- B. Special Diploma – A students with disabilities who has successfully completed the requirements set forth in his or her Individualized Education Plan but has not met the requirements for other diplomas shall be awarded a special diploma.
- C. Diploma Seals
  - 1. Governor’s Seal will be awarded to students who complete the requirements for an Advanced Studies Diploma with an average grade of “B” (3.0) or better and successfully complete at least one (1) advanced placement (AP) course or one (1) college-level course for credit. Beginning with the ninth-grade class of 2006-2007, the Governor’s Seal will be awarded to students who complete the requirements for an Advanced Studies Diploma with an average grade of “B” (3.0) or better, and successfully complete college-level coursework that will earn the student at least nine transferable college credits in Advanced Placement (AP), International Baccalaureate (IB), Cambridge, or dual enrollment courses.
  - 2. Board of Education Seal will be awarded to students who complete the requirements for a Standard Diploma or Advanced Studies Diploma with an average grade of “A” (3.50).
  - 3. Career and Technical Seal will be awarded to students who earn either a Standard or Advanced Studies Diploma and complete a prescribed sequence of courses in a career and technical education concentration or specialization that they choose and maintain a “B” or better average in those courses; or (i) pass an examination or an occupational competency in a career and technical education concentration or specialization that confers certification or occupational competency credential from a recognized industry, trade or professional association; or (ii) acquire a professional license in that career and technical education field from the Commonwealth of Virginia. The Virginia Board of Education shall approve all professional licenses and examinations used to satisfy these requirements.
  - 4. Advanced Mathematics and Technology Seal will be awarded to students who earn either a Standard or Advanced Studies Diploma and (i) satisfy all of the mathematics requirements for the Advanced Studies Diploma (four units of credit including Algebra II; two verified units of credit) with a “B” average or better; and (ii) either (a) pass an examination in a career and technical education field that confers certification from a recognized industry, or trade or professional association; (b) acquire a professional license in a career and technical education field from the Commonwealth of Virginia; or (c) pass an examination approved by the Board of Education that confers college-level credit in a technology or computer science area. The Virginia Board of Education shall approve all professional licenses and examinations used to satisfy these requirements.
  - 5. Seal of Excellence in Civics Education will be awarded to students who satisfy each of the following four criteria: (1) Earn a Standard or Advanced Diploma ; AND (2) Complete Virginia and United States History and Virginia and United States Government courses with a grade of “B” or higher ;AND (3) Complete 50 hours of voluntary participation in community service or extracurricular activities as defined in the *Regulations Establishing Standards for Accrediting Public Schools in Virginia*; AND (4) Have good attendance and no disciplinary infractions as determined by the local school board policies.

## EDUCATIONAL OPPORTUNITIES

Students who failed to graduate or who failed to achieve the number of verified units of credit for graduation and have not reached 20 years of age on or before August 1 of the current school are eligible to pursue a program of studies that will enable them to earn a diploma. Students should contact the guidance counselor of their home school to find out which options are available.

**GRADUATION REQUIREMENTS  
FOR  
STUDENTS ENTERING NINTH GRADE FOR THE FIRST TIME DURING OR AFTER THE 2003-2004**

SCHOOL YEAR	STANDARD DIPLOMA		ADVANCED STUDIES DIPLOMA	
DISCIPLINE AREA	UNITS OF CREDIT (courses that must be passed)	VERIFIED CREDITS (state tests that must be passed)	UNITS OF CREDIT (courses that must be passed)	VERIFIED CREDITS (state tests that must be passed)
English	4	2	4	2
Mathematics	3 <sup>a</sup>	1	4 <sup>d</sup>	2
Lab Science	3 <sup>b</sup>	1 <sup>i</sup>	4 <sup>e</sup>	2
History and Social Sciences	3 <sup>c</sup>	1 <sup>i</sup>	4 <sup>f</sup>	2
Health and Physical Education	2	-	2	-
Foreign Language		-	3-4 <sup>g</sup>	-
<b>Fine or Performing Arts or Career and Technical Education</b>	1	-	1	-
Electives	6 <sup>h</sup>	-	2-1	-
Student-selected tests		1		1
<b>Total Credits</b>	<b>22</b>	<b>6</b>	<b>24</b>	<b>9</b>

- a Courses completed to satisfy this requirement shall be at or above the level of algebra and shall include at least two course selections from among: Algebra I, Geometry, Algebra II, or other mathematics courses above the level of algebra and geometry.
- b Courses completed to satisfy this requirement shall include course selections from at least two different science disciplines: earth sciences, biology, chemistry, or physics.
- c Courses completed to satisfy this requirement shall include U. S. and Virginia History, U. S. and Virginia Government, and one world history/geography course.
- d Courses completed to satisfy this requirement shall be at or above the level of algebra and shall include at least three different course selections from among: Algebra I, Geometry, Algebra II, or other mathematics courses above the level of Algebra II.
- e Courses completed to satisfy this requirement shall include course selections from at least three different science disciplines from among: earth sciences, biology, chemistry, or physics.
- f Courses completed to satisfy this requirement shall include U. S. and Virginia History, U. S. and Virginia Government, and two world history/geography courses.
- g Three (3) credits in one language or two (2) credits each in two languages.
- h Courses to satisfy this requirement shall include at least two sequential electives.
- i Students who complete a career and technical education program sequence and pass an examination or occupational competency assessment in a career and technical education field that confers certification or an occupational competency credential from a recognized industry, or trade or professional association or acquires a professional license in a career and technical education field from the Commonwealth of Virginia, may substitute the certification, competency credential, or license for (i) the student selected verified credit and (ii) either a science or history and social science verified credit when the certification, license, or credential confers more than one verified credit. The examination or occupational competency assessment must be approved by the Board of Education as an additional test to verify student achievement.

A verified unit of credit for graduation shall be awarded when a student successfully completes the requirements of the course and achieves a passing score on the end-of -course SOL test for that course. A student takes an end-of -course SOL test when enrolled in the following courses:

English 11 (Two tests)  
Algebra I, Part II  
Algebra I  
Algebra II  
Algebra II/Trig Honors  
Foundations of Geometry

Geometry  
Honors Geometry  
World History and Geography, Part I  
World History and Geography, Part II  
United States and Virginia History  
Earth Science

Biology I  
Biology I Honors  
Chemistry I

## GRADUATION REQUIREMENTS

## BEGINNING WITH THE NINTH GRADE CLASS OF 2000-2001 AND THEREAFTER

<i><b>This diploma option is available only to Special Education students with a current IEP</b></i>	<b>MODIFIED STANDARD DIPLOMA</b>	
DISCIPLINE AREA	UNITS OF CREDIT (courses that must be passed)	VERIFIED CREDITS (state tests that must be passed)
English	4	0
Mathematics <sup>a</sup>	3	0
Science <sup>b</sup>	2	0
History and Social Sciences <sup>c</sup>	2	0
Health and Physical Education	2	-
Fine Arts or Practical Arts	1	-
Electives <sup>d</sup>	6	-
Total Credits	20	0*

- a Courses completed to satisfy this requirement shall include content from among applications of Algebra, Geometry, Personal Finance, and Statistics in courses that have been approved by the Board.
  - b Courses completed shall include content from at least two of the following: Applications of Earth Science, Biology, Chemistry, or Physics in courses approved by the Board.
  - c Courses completed to satisfy this requirement shall include one unit of credit in U.S. and Virginia History and one unit of credit in U.S. and Virginia Government in courses approved by the Board.
  - d Beginning with the graduating class of 2003, courses to satisfy this requirement shall include at least two sequential electives in the same manner required for the Standard Diploma.
- \* Those students who pursue the Modified Standard Diploma shall be required to pass the 8<sup>th</sup> grade Standards of Learning (SOL) tests in both English (Reading, Literature, and Research) and Mathematics to meet the literacy and numeracy requirements for this diploma.

The student must meet any additional criteria established by the Board of Education

## EQUAL EDUCATIONAL OPPORTUNITIES/NONDISCRIMINATION

### I. Policy Statement

Equal educational opportunities shall be available for all students, without regard to race, national origin, gender, ethnicity, religion, disability or marital or parental status. Educational programs shall be designed to meet the varying needs of all students.

No student, on the basis of gender, shall be denied equal access to programs, activities, services or benefits or be limited in the exercise of any right, privilege, advantage or denied equal access to educational and extracurricular programs and activities.

The School Board shall:

- provide facilities, programs and activities that are accessible, usable and available to qualified disabled persons;
- provide a free, appropriate education, including non-academic and extracurricular services to qualified disabled persons;
- not exclude qualified disabled persons, solely on the basis of their disabilities, from any preschool, daycare, adult education or career and technical education programs; and
- not discriminate against qualified disabled persons in the provision of health, welfare or social services.

### II. Complaint Procedure

Any student who believes he or she has been the victim of prohibited discrimination should report the alleged discrimination as soon as possible to one of the compliance officers designated in this policy or to any other school employees. Students can report prohibited discrimination to any school employee; school employees shall report such allegations to the compliance officer. Students may utilize the Informal Process and/or the Formal Process, as described below. "Prohibited discrimination" means any discrimination on the basis of race, national origin, gender, ethnicity, religion, disability or parental status, to the extent prohibited by federal or state law, occurring on school property or at school events and can include actions of teachers, other school employees, other students or third parties.

#### A. Informal Process

Any student may make use of an informal process to address alleged discrimination. Such student may choose to talk with the compliance officer informally, to maintain confidentiality or for other reasons, rather than making a formal report, within five (5) school days or ten (10) calendar days of the occurrence, whichever is less. The compliance officer may write a report describing the nature of the complaint and how it was resolved. If the student is unsatisfied with the informal resolution, the student may choose to pursue the options available under the formal process. Students choosing to engage in the Informal Process must still comply with all time limitations and other requirements of the Formal Process, which are not tolled by the proceedings under the Informal Process.

#### B. Formal Process

##### 1. File Report

The alleged discrimination should be reported as soon as possible, and the report should be made within five (5) school days or ten (10) calendar days of the occurrence, whichever is less. Further, any student who has knowledge of conduct which may be prohibited discrimination should report such conduct to one of the compliance officers designated in this policy or to any school employees. Any employee who has knowledge of conduct which may constitute prohibited discrimination shall immediately report such conduct to one of the compliance officers designated in this policy. The compliance officer shall report allegations to the sheriff's department and/or the Department of Social Services, when required by law.

The reporting party should use the form, Report of Discrimination, JB-F, to make complaints of discrimination. However, oral reports shall also be accepted. The complaint should be filed with either the building principal or one of the compliance officers designated in this policy. The principal shall immediately forward any report of alleged prohibited discrimination to the

compliance officer. Any complaint that involves the compliance officer or principal shall be reported to the superintendent.

The complaint, and identity of the complainant and of the person or persons allegedly responsible for the discrimination will not be disclosed except as required by law or policy, as necessary to fully investigate the complaint or as authorized by the complainant. A complainant who wishes to remain anonymous will be advised that such confidentiality will limit the school division's ability to fully respond to the complaint.

## 2. Investigation

Upon receipt of a report of alleged prohibited discrimination, the compliance officer shall authorize or undertake an investigation. The investigation may be conducted by school employees or a third party designated by the school division. The investigation shall be completed as soon as practicable, which should generally be not later than 30 calendar days after receipt of the report by the compliance officer unless the complexity of the investigation requires additional time. Upon receiving the complaint, the compliance officer shall acknowledge receipt of the complaint by giving written notice that the complaint has been received to both the person complaining of discrimination and the person or persons allegedly responsible for the discrimination. Also upon receiving the complaint, the compliance officer shall determine whether interim measures should be taken pending the outcome of the investigation. Such interim measures shall include reasonable steps to prevent continued discrimination. The compliance officer may implement the interim measures himself, or direct appropriate school employees to implement the interim measures, as the compliance officer deems appropriate in light of all circumstances. If the compliance officer determines that more than 30 days will be required to investigate the complaint, the complainant and the person or persons allegedly responsible for the discrimination will be notified of the reason for the extended investigation and of the date by which the investigation will be concluded.

The investigation may consist of personal interviews with the complainant, the person or persons allegedly responsible for the discrimination, and any others who may have knowledge of the alleged discrimination or the circumstances giving rise to the complaint. The investigation may also include the inspection of any documents or information deemed relevant by the investigator.

Whether a particular action or incident constitutes a violation of this policy requires a case by case determination based on all of the facts and circumstances revealed by a complete and thorough investigation.

The compliance officer shall issue a written report to the superintendent upon completion of the investigation. If the complaint involves the superintendent, then the report shall be sent to the School Board. The report shall include a determination of whether the allegations are substantiated, whether this policy was violated and recommendations for corrective action, if any.

All employees shall cooperate with any investigation of alleged discrimination conducted under this policy or by an appropriate state or federal agency.

## 3. Action by Superintendent

Within five calendar days of receiving the compliance officer's report, the superintendent or designee shall issue a decision regarding (1) whether this policy was violated and (2) what action, if any, should be taken. The superintendent or designee shall provide the decision in writing to the person allegedly responsible for the discrimination. If no discrimination is found, the superintendent or designee shall notify complainant of that determination in writing. If discrimination is found, the superintendent or designee shall notify the complainant in writing that discrimination was found and that appropriate action will be taken. If the superintendent determines that prohibited discrimination occurred, the Campbell County School Division shall take prompt, appropriate action to address and remedy the violation as well as prevent any recurrence. Such action may include discipline up to and including expulsion or discharge.

#### 4. Appeal

If the superintendent or designee determines that no prohibited discrimination occurred, the student who was allegedly subjected to discrimination may appeal this finding to the School Board within five calendar days of receiving the Superintendent's decision. Notice of appeal must be filed with the superintendent who shall forward the record to the School Board. The complainant and the person allegedly responsible for the discrimination shall both have access to the investigative record upon request. The School Board shall make a decision within 60 calendar days of receiving the record. The School Board may ask for oral or written argument from the aggrieved party and the superintendent and any other individual the School Board deems relevant. The complainant and the person allegedly responsible for the discrimination shall be notified after the School Board reaches its decision.

If the superintendent or designee determines that prohibited discrimination occurred and discipline is imposed, the disciplined person may appeal the disciplinary sanction in the same manner as any other such sanction would be appealed. (See Policy JGD/JGE).

#### 5. Compliance Officer and Alternate Compliance Officer

The Campbell County School Board has designated the following employees as Compliance Officers:

Employee Compliance Officer:

Robert Johnson, Administrative Assistant for Personnel, Campbell County Schools, P.O. Box 99, 684 Village Highway, Rustburg, VA 24588, (434) 332-8246, is the Compliance Officer responsible for identifying, preventing and remedying prohibited discrimination in cases where the person or persons allegedly responsible for the discrimination is/are an employee(s) or other non-student(s),

Student Compliance Officer:

John P. Erb, Sr., Assistant Superintendent, Campbell County Schools, P.O. Box 99, 684 Village Highway, Rustburg, VA 24588, (434) 332-8228, is the Compliance Officer responsible for identifying, preventing and remedying prohibited discrimination where the person or persons allegedly responsible for the discrimination is/are a student(s).

Complaints of discrimination, whether involving students or employees, may also be made to the Alternate Compliance Officer:

Cindee Pletke, Director of Pupil Personnel Services, Campbell County Schools, P.O. Box 99, 684 Village Highway, Rustburg, VA 24588, (434) 332-8231.

The Compliance Officer shall:

- receive reports or complaints of discrimination;
- oversee the investigation of any alleged discrimination;
- assess the training needs of the school division in connection with this policy and ensure appropriate dissemination of this policy;
- arrange necessary training to achieve compliance with this policy;
- insure that any discrimination investigation is conducted by an impartial investigator who is trained in the requirements of equal education opportunity, and has the authority to protect the alleged victim and others during the investigation;
- maintain required investigative records in the school board office or other appropriate location.

III. Retaliation  
Retaliation against students or school employees who report discrimination or participate in the related investigations and/or proceedings is prohibited. The school division shall take appropriate action against any student or employee who retaliates against another student or employee who reports alleged discrimination or participates in related proceedings.

IV. Right to Alternative Complaint Procedure  
Nothing in this policy shall deny the right of any individual to pursue other avenues of recourse to address concerns relating to prohibited discrimination including initiating civil action, filing a complaint with outside agencies or seeking redress under state or federal law.

V. Prevention and Notice of Policy  
Training to prevent discrimination should be included in employee and student orientations as well as employee in-service training.

This policy shall be (1) displayed in prominent areas of each division building in a location accessible to students, parents and school employees, (2) included in the student and employee handbooks; and (3) sent to parents of all students within 30 calendar days of the start of school. All students and their parents/guardians shall be notified annually of the names and contact information of the compliance officers.

VI. False Charges  
Students or school personnel who make false charges of discrimination shall be subject to disciplinary actions.

REPORT OF DISCRIMINATION BY EMPLOYEE

Name of Complainant: \_\_\_\_\_

Complainant's School and Job Title: \_\_\_\_\_

Address and Phone Number: \_\_\_\_\_

Date(s) of Alleged Discrimination: \_\_\_\_\_

Name of person(s) you believe discriminated against you or others: \_\_\_\_\_

Please describe in detail the incident(s) of alleged discrimination, including where and when the incident(s) occurred. Please name any witnesses that may have information regarding the situation. Attach additional pages if necessary. Attach any documentation or tangible items relevant to the incident(s) of alleged discrimination. \_\_\_\_\_

Please describe any past incidents that may be related to this complaint.

I certify that the information provided in this report is true, correct and complete to the best of my knowledge.

\_\_\_\_\_  
Signature of Complainant

\_\_\_\_\_  
Date

Notice to Complainant: If you wish to remain completely anonymous, you must notify the Compliance Officer in writing. Such confidentiality will limit the school division's ability to fully respond to your complaint.

Complaint Received By: \_\_\_\_\_  
Compliance Officer

\_\_\_\_\_  
Date

REPORT OF DISCRIMINATION BY STUDENT

Name of Complainant: \_\_\_\_\_

Complainant's School and Class: \_\_\_\_\_

Address and Phone Number: \_\_\_\_\_

Type of Discrimination you believe occurred (check any that apply): \_\_\_\_\_ Race  
\_\_\_\_\_ National Origin \_\_\_\_\_ Gender \_\_\_\_\_ Ethnicity \_\_\_\_\_ Religion  
\_\_\_\_\_ Disability \_\_\_\_\_ Marital/Parental Status

Name of person(s) you believe discriminated against you or others: \_\_\_\_\_

Date(s) and Time(s) of Alleged Discrimination: \_\_\_\_\_

Location(s) of Alleged Discrimination: \_\_\_\_\_

Please name any witnesses that may have information regarding the situation. Provide their phone number, address or other contact information, if known. \_\_\_\_\_

Please describe in detail the incident(s) of alleged discrimination including a description of your reaction. Attach additional pages if necessary. Attach any documentation or tangible items relevant to the incident(s) of alleged discrimination.

Please describe any past incidents that may be related to this complaint.

I certify that the information provided in this report is true, correct and complete to the best of my knowledge.

\_\_\_\_\_  
Signature of Complainant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Parent

\_\_\_\_\_  
Date

Notice to Complainant: Signature of Complainant and/or Parent is not required. If you wish to remain completely anonymous, however, you must notify the Compliance Officer in writing. Such confidentiality will limit the school division's ability to fully respond to your complaint.

Employee Reported To: \_\_\_\_\_  
Employee

\_\_\_\_\_  
Date

Complaint Received By: \_\_\_\_\_  
Compliance Officer

\_\_\_\_\_  
Date

## SECTION 504 HEARING PROCEDURES

The Campbell County School Board does not discriminate against individuals on the basis of disability. Where a student believes that he or she has been discriminated against on the basis of disability, the student shall have the right to request a hearing. The superintendent of the Campbell County school division shall establish hearing procedures that conform to federal requirements for any student alleging disability discrimination.

### I. Issues Giving Rise to a Hearing

- A. A hearing may be requested by any current student or employee over a complaint alleging discrimination based on disability, including complaints concerning the identification, evaluation, and educational placement of students with disabilities.
- B. Student use of drugs or alcohol. Disciplinary matters relating to current use or possession of illegal drugs or alcohol are not reviewable in a hearing.
- C. Employee drugs and alcohol use. Employees may not request a hearing over actions taken against the employee for the current use of alcohol which prevents them from performing their duties or for whom current alcohol abuse constitutes a direct threat to the property or safety of others. Nor may a hearing be requested when action is taken as a result of the current illegal use of drugs.

### II. Requesting a Hearing

Requests for hearings shall be made in writing and directed to the Campbell County Section 504 Coordinator: Cindee Pletke, Director of Pupil Personnel Services, Campbell County Schools, P.O. Box 99, Rustburg, VA 24588. The request must include the nature of the complaint, supporting facts and the relief requested. A hearing must be requested within ninety (90) days of the dispute giving rise to the hearing.

### III. Appointment of a Hearing Officer

A hearing officer will be appointed on a rotating basis by the Coordinator from the list of attorneys appointed by the School Board and who have expertise and training in disability **law or from a list maintained by the Supreme Court of Virginia**. The hearing officer must be appointed within ten working days of receipt of a request for a hearing.

### IV. Pre-Hearing Procedures

- A. The hearing officer is responsible for the following matters prior to the hearing:
  - (1) Scheduling the hearing date and location and notification to the parties.
  - (2) Ascertaining whether the parties will be represented at the hearing.
  - (3) Ascertaining whether the hearing will be open or closed.
  - (4) Insuring that the hearing is accurately recorded either by recording equipment or by a court reporter.
- B. A list of documents and witnesses must be exchanged by the parties one week prior to the hearing and copies provided to the hearing officer.
- C. Pre-hearing conferences should be held, if appropriate.

### V. Hearing Procedures

- A. The parties have the following rights in a hearing:
  - (1) to be represented by counsel;
  - (2) to present evidence and cross-examine witnesses;

- (3) to prohibit the introduction of evidence that has not been disclosed in advance; and
  - (4) to obtain a copy of the transcript or a tape recording of the hearing (the cost of the transcript to be borne by the requesting party).
- B. For hearings requested on behalf of students, the student may attend the hearing.
  - C. The hearing officer shall insure in connection with the hearing the following matters:
    - (1) An atmosphere conducive to impartiality and fairness.
    - (2) The appointment of a surrogate parent by the school division, if appropriate, pursuant to the regulations adopted by the State pursuant to the Individuals with Disabilities Education Act.
    - (3) Maintenance of an accurate record of the proceedings.
    - (4) Issuance of a written decision to all parties setting forth findings of fact and conclusions of law based on the evidence presented in the hearing.
    - (5) The rendering of a decision within forty-five (45) calendar days of receipt of the request for a hearing, unless continued upon a reasonable request of a party.
    - (6) Assignment of a burden of proof to the party requesting a change in the status quo.
    - (7) The hearing officer shall hold all records for thirty (30) days after issuance of a decision. In the event an appeal is noted, the Coordinator will advise the hearing officer of the name and address of the reviewing officer. The hearing officer shall transmit the record to the reviewing officer within three (3) days of the request. In the event no appeal is made, the hearing officer shall return the record to the Coordinator.
- VI. Review Procedure
- A. An appeal may be noted by an aggrieved party by filing a written notice with the Coordinator within thirty (30) days of the date of the decision issued by the hearing officer.
  - B. A reviewing officer must be appointed by the Coordinator from the same list from which the initial hearing officer was appointed and within one week of receipt of the request for review.
  - C. The reviewing officer shall:
    - (1) examine the record of the hearing;
    - (2) seek additional evidence, if necessary;
    - (3) afford the opportunity for written or oral argument;
    - (4) advise the parties of the right to be represented by counsel during the review proceedings; and
    - (5) issue a written decision.
  - D. The reviewing officer shall uphold the initial decision unless it is found to be arbitrary or capricious, contrary to law, or not supported by substantial evidence.
  - E. The reviewing officer's decision must be issued within thirty (30) days of receipt of the request for an appeal, unless continued for good cause at the request of a party. A copy of the decision must be sent to all parties.
  - F. The record of the administrative hearings shall be sent by the reviewing officer to the Coordinator upon the issuance of the decision.
  - G. The Coordinator is responsible for maintaining all records of hearings and transmittal to court in the event of judicial proceedings.
- VII. At the option of the Superintendent, an election can be made following the request for a hearing made on behalf of a student to utilize the due process procedures under the IDEA for students rather than these procedures.

## TITLE IX GRIEVANCE PROCEDURE

Pursuant to Title IX of the Education Amendments of 1972 and 34 Code of Federal Regulations, Part 106, the Campbell County school division adopts the following policy:

- A. Campbell County Public Schools do not discriminate on the basis of sex in the educational program and activities which it operates, and are required by Title IX and 34 CFR, Part 106, not to discriminate in such a manner. This requirement not to discriminate in the education program or activity extends to employment with and admission by the school system. Inquiries concerning the application of Title IX and 34 CFR, Part 106, may be referred to a Compliance Officer as designated below, or to the Assistant Secretary for Civil Rights of the Department of Education.
- B. John P. Erb, Sr. and Cindee Pletke are the Compliance Officers designated to investigate any complaint communicated to such recipient alleging non-compliance with Title IX.
- C. The following four step process for investigating possible Title IX violations in the Campbell County public school system has been enacted. A grievable action shall be defined as misinterpretation or misapplication of any of the employment, educational or other school division programs as they apply to employees or students which results in a violation of Title IX.

Step 1 – The disputing parties shall meet to reconsider the issue in an attempt to reach a mutually satisfactory resolution of their differences.

Step 2 – If the matter is not resolved and a student, parent or employee believes that there is a basis for a grievance, he/she shall present the alleged grievance in writing and on a standard form supplied by a Compliance Officer to a Compliance Officer within 20 days after its occurrence. The Compliance Officer shall reply in writing within 15 days after the presentation of the grievance. The Compliance Officers' addresses and telephone numbers are Post Office Box 99, Rustburg, Virginia, telephone number 332-3458.

Step 3 – If the action of Step 2 fails to resolve the grievance to the satisfaction of the affected party, the aggrieved shall, within 5 working days, submit such grievance in writing to the superintendent for his resolution. The superintendent shall reply in writing within 15 working days after the presentation of the grievance.

Step 4 – If the action of Step 3 fails to resolve the grievance to the satisfaction of the affected party, the aggrieved shall, within 5 working days, submit such grievance to the school board for resolution.

The board shall review the grievance and hold a hearing, if necessary, no later than the next regular meeting date or the subsequent regular meeting date, if the grievance is submitted to the board within 5 working days prior to the regularly scheduled meeting date. The board will reply to the grievance in writing 15 days thereafter and the decision of the board shall be final. A copy of the board's official policy is attached to this notification.

### TITLE IX GRIEVANCE FORM

This form must be completed and returned to the Compliance Officer within twenty (20) days after the alleged violation of Title IX.

Complaint Originator \_\_\_\_\_

School \_\_\_\_\_ Date \_\_\_\_\_

Name(s) of Person(s) You Believe Are Responsible For The Alleged Violation(s) \_\_\_\_\_

Date(s) and Time(s) of Alleged Violation(s) \_\_\_\_\_

Location(s) of Alleged Violation(s) \_\_\_\_\_

Please Name any Witness(es) that may have Information Regarding the Situation \_\_\_\_\_

Provide the Telephone Number(s), Address(es) or Other Contact Information, if known \_\_\_\_\_

Please Describe in Detail the Incident(s) Involving the Alleged Violation(s), Including a Description of Your Reaction \_\_\_\_\_

Attach any Documentation or Tangible Items Relevant to the Incident(s) Related to the Alleged Violation(s) \_\_\_\_\_

Please Describe any Past Incidents that may be Related to this Complaint \_\_\_\_\_

Persons Contacted Prior to this Filing and Action Taken or Advised \_\_\_\_\_

In Your Opinion, How Can This Matter be Resolved? \_\_\_\_\_

(Attach Additional Pages, If Necessary, to Completely Answer the Above)

I certify that the information provided in this report is true, correct and complete to the best of my knowledge.

\_\_\_\_\_  
Signature of Complainant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Parent

Notice to Complainant:

Signature of Complainant and/or Parent is not required. If you wish to remain completely anonymous, however, you must notify the Compliance Officer in writing. Such confidentiality will limit the school division's ability to fully respond to your complaint.

Employee Reported To: \_\_\_\_\_

Date: \_\_\_\_\_

Complaint Received By:

\_\_\_\_\_

Compliance Officer

\_\_\_\_\_

Date

## SEX OFFENDER REGISTRY NOTIFICATION

The Campbell County school division recognizes the danger sex offenders pose to student safety. Therefore, to protect students while they travel to and from school, attend school or at school-related activities, each school in the Campbell County school division shall request electronic notification of the registration or re-registration of any sex offenders in the same or contiguous zip codes as the school. Such request and notification shall be made according to the procedure established by the Virginia Department of State Police (State Police).

### Annual Notification

At the beginning of each school year, the Campbell County school division shall notify parents and employees of the division's policy. The school board will also annually notify the parent of each student enrolled in the school division of the availability of information in the Sex Offender and Crimes Against Minors Registry and the location of the Internet website ( <http://sex-offender.vsp.state.va.us/cool-ICE/> ).

### Receipt and Dissemination of Sex Offender Registry Information

Sex offender registry information should be provided to employees who are most likely to observe unauthorized persons on or near school property including but not limited to:

- school bus drivers
- employees responsible for visitor registration
- employees responsible for bus duty
- security staff
- coaches
- playground supervisors, and
- maintenance personnel.

When registry information is disseminated, it shall include a notice that such information should not be shared with others and may only be used for the purposes discussed below. Employees who share registry information with others may be disciplined.

The Campbell County school division recognizes that it is the responsibility of local law enforcement to notify the community of potential public danger. Therefore, the division will not disseminate registry information to parents.

### Use of Sex Offender Registry Information

Registry information shall only be used for the purposes of the administration of law-enforcement, screening current or prospective school division employees or volunteers and for the protection of school division students and employees. Registry information shall not be used to intimidate or harass others.

1. **Registered Sex Offender Sighted.** If a notified employee sees a registered sex offender on or near school property, around any school division student, or attending any school division activity, the Superintendent or his designee shall be notified immediately. The Superintendent or his designee may, in his or her discretion, notify local law-enforcement.
2. **School Volunteers and Student Teachers.** Each staff member shall submit to the Principal the name and address of each volunteer the staff member proposes to use as soon as the person is identified. The Principal shall screen each student teacher and volunteer's name and address against the registry information. If a match is found, the Principal shall notify the Superintendent, who shall confirm the match. If the match is confirmed, the Superintendent shall inform the individual, in writing, that he or she may not serve as a volunteer or student teacher. The notice shall provide the reason with reference to this policy and, if applicable, policy KNA. The Superintendent shall provide a copy of the notice to the principal and staff member.

3. **Contractors' Employees.** The Superintendent shall include the following language in all Division contracts that may involve an employee of the contractor having any contact with a student:

The contractor shall not send any employee or agent who is a registered sex offender to any school building or school property.

Monthly, the contractor shall check the registry to determine if any employee is registered.
4. **School Division Employees.** Each time sex offender registry information is received, the principal shall review it to determine if a school division employee is registered. If a match is found, the Superintendent shall confirm or disprove the match with local law enforcement. If the match is confirmed, the Superintendent shall notify the School Board. The School Board will take the appropriate action to comply with state law which may include termination of employment.
5. **Applicants for Employment.** Before hiring any person, the Superintendent, principal or designee shall determine whether the prospective employee is a registered sex offender. If the prospective employee is a registered sex offender, he or she shall not be hired by the division.
6. **Students and Parents of Students.** Adults who have been convicted of a sexually violent offense, as defined in Va. Code § 9.1-902, may be present on school property during school hours as provided in policy KNA. Other sex offender registrants who are the parents or guardians of a student, may be permitted to participate in appropriate parent or guardian activities, under appropriate supervision, unless prohibited by court order. Students who are registered sex offenders may not be precluded from attending school.
7. **Precautions to Protect Students.** When the Superintendent determines it is necessary, because of the presence of a registered sex offender, alternative arrangements may be made for bus and walking routes to and from school, recess and physical education periods, or any other activity in order to protect division students.

#### Requests for Registry Information

Anyone requesting registry information from the school division shall be referred to the State Police.

## PUPIL PERSONNEL SERVICES

### A. Special Education Services

All eligible children with disabilities, from birth through age 21, inclusive, who reside in Campbell County or who are highly mobile, such as migrant or homeless, have the right to free and appropriate educational services. Services are provided for eligible children who are mentally retarded, hearing impaired or deaf, speech and language impaired, visually impaired, learning disabled, emotionally disturbed, orthopedically impaired, developmentally delayed, other health impaired, autistic, deaf/blind, multihandicapped, severely disabled, or have a traumatic brain injury. Special education services are terminated when a student graduates with a standard or advanced studies high school diploma. In addition, free and appropriate public educational services are available under the Rehabilitation Act of 1973 and its supporting regulations for any qualified child with a disability who: (1) has a physical or mental impairment which substantially limits one or more major life activities; (2) has a record of such an impairment; and (3) is regarded as having such an impairment. If you suspect a child of having a disability or would like information about the various disabilities and early warning signs, please contact the Supervisor of Special Education at 332-8243 or 1-888-332-3558, extension 243, between the hours of 8:00 AM and 4:00 PM, Monday through Friday.

### B. All students, within 60 business days of initial enrollment in Campbell County Schools, are screened in vision and hearing to determine if formal assessment is indicated. All children through grade 3, within 60 business days of initial enrollment in Campbell County Schools, are also screened for speech, language, voice, fine motor and gross motor functions to determine if formal assessment is indicated. Specific measures will be used which employ both observational and performance techniques and guarantee non-discrimination.

All students in third, seventh, and tenth grades are screened for vision and hearing within 60 business days of the opening of school. Parents will be notified of the results if a student fails the screening.

The parents of all students in grades five, six, eight, and nine will be given educational information regarding scoliosis annually. Additionally, all students in grades seven and ten will be screened for scoliosis within 60 business days of the opening of school. Parents will be notified of the results if a student fails the screening. You may request that your child not participate in this screening by completing a form available at the school. If you exercise the option of not having your child screened, you must make the request each year the screening is offered.

**VIRGINIA SPECIAL EDUCATION PROCEDURAL SAFEGUARD REQUIREMENTS  
UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT  
Revised June 2005**

This document amends the February 2001 Procedural Safeguards Document of the Virginia Department of Education. The revisions reflect the new mandates of the *Individuals with Disabilities Education Improvement Act* of 2004 (IDEA '04; P.L. 108-446; 20 USC §1400 et seq). These mandates are effective July 1, 2005. Any federal or state regulation not impacted by a mandate of the IDEA '04 remains in effect until the provision is changed by revised federal and state regulations implementing the IDEA '04. This document will be amended following issuance of revised federal regulations and revised state regulations implementing the IDEA '04.

The parent or parents of a child who is suspected to be or identified as a child, age two to 21 inclusive, needing special education has certain rights guaranteed by state and federal laws. The same rights apply to a child who has reached the age of majority (age 18 in Virginia), and is suspected as needing or identified as needing special education.

"Parent or parents" means a natural or adoptive parent or parents of a child, a guardian, a person acting in the place of a parent (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare), a foster parent under the circumstances described below, or a surrogate parent who has been appointed in accordance with Virginia regulations. The term means either parent, unless the LEA has been provided with evidence that there is a legally binding instrument, state law, or court order that has terminated the parent's or parents' rights. A foster parent may also serve as a parent: if the natural parent's or parents' authority to make educational decisions on the child's behalf has been extinguished under specific sections of the Code of Virginia or a comparable law in another state; the child is in permanent foster care pursuant to the Code of Virginia or comparable law in another state; and the foster parent or parents have an ongoing, long-term parental relationship with the child, are willing to make the educational decisions required of the parent or parents under this chapter, and have no interest that would conflict with the interests of the child. The term "parent or parents" does not include local or state agencies or their agents, including local departments of social services, if the child is in the custody of such an agency. The terms parent or parents as used in this document refer to one or both parents.

Special education means specially designed instruction, at no cost to the parent or parents, to meet the unique needs of a child with a disability, including instruction conducted in a classroom, in the home, in hospitals, in institutions, and in other settings and instruction in physical education. The term includes speech-language pathology services, vocational education, and travel training. Parents, students, and local educational agencies share in the education of the students. The term LEA (local educational agency), by definition in Virginia regulations, includes local school divisions, state-operated programs, and the Virginia Schools for the Deaf and the Blind.

Virginia regulations refer to the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* (8 VAC 20-80-10 through 8 VAC 20-80-190), 2001/2002.

#### **I. Transfer of parental rights at age of majority**

All rights accorded to the parent or parents under IDEA transfer to children upon the age of majority (age 18), including those students who are incarcerated in an adult or juvenile federal, state, regional, or local correctional institution.

##### **Notification**

- The LEA shall notify the parent and the student that educational rights under IDEA will transfer from the parent or parents to the student upon the student reaching the age of majority. Such notification must be given at least one year prior to the student's eighteenth birthday.
- The LEA shall notify the parent and the student that procedures exist for appointing the parent or parents or, if the parent or parents are not available, another appropriate individual to represent the educational interests of the student throughout the student's eligibility for special education and related services if the student is determined not to have the ability to provide informed consent with respect to the educational program.
- The LEA shall include a statement on the Individualized Education Program (IEP) (beginning at least one year before the student reaches the age of majority) that the student has been informed of the rights that will transfer to the student on reaching the age of 18.
- The LEA shall provide any further notices required under the IDEA to both the student and the parent or parents.

- The LEA may continue to invite the parent or parents, as appropriate, as bona fide interested parties knowledgeable of the student's abilities, to participate in meetings where decisions are being made regarding their adult student's educational program.
- The adult student may invite the student's parent or parents to participate in meetings where decisions are being made regarding the student's educational program.

A student who has reached the age of 18 years shall be presumed to be a competent adult, and thus all rights under the IDEA shall transfer to the adult student, unless one of the actions outlined in the Virginia regulations at 8 VAC 20-80-72 C has been taken.

## II. Procedural safeguards notice

A copy of the procedural safeguards available to the parent or parents of a child with a disability must be given to the parent or parents only one time a year, and upon:

- initial referral or parental request for evaluation;
- filing a request for a due process hearing; and,
- request by a parent.

The LEA may place a current copy of the procedural safeguards notice on its internet website if such website exists.

Contents. The procedural safeguards notice must include a full explanation of all of the procedural safeguards available relating to:

- independent educational evaluation;
- prior written notice;
- parental consent;
- access to educational records;
- opportunity to present and resolve disputes in due process hearings, including:
  - (1) the time period in which to make the request for due process;
  - (2) the opportunity for the LEA to resolve the issues; and
  - (3) the availability of mediation;
- the child's placement during pendency of due process proceedings;
- procedures for students who are subject to placement in an interim alternative educational setting;
- requirements for unilateral placement by parents of children in private schools at public expense;
- due process hearings, including requirements for disclosure of evaluation results and recommendations;
- civil actions, including the time period in which to file such actions;
- attorneys' fees; and
- the State complaint procedures including a description of how to file a complaint and the timelines under those procedures.

Notice in understandable language.

- The notice required above must be written in language understandable to the general public; and provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.
- If the native language or other mode of communication of the parent is not a written language, the LEA shall take steps to ensure that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication; that the parent understands the content of the notice; and that there is written evidence that the requirements have been met.

General responsibility of public agencies; definitions.

Responsibility of the State Educational Agency (SEA) and other local educational agencies<sup>a</sup>. Each SEA shall ensure that each LEA establishes, maintains, and implements procedural safeguards that meet the requirements of the federal regulations implementing IDEA relative to procedural safeguards.

As used in these Procedural Safeguards:

- Consent means that the parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication; the parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and the parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at

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<sup>a</sup>The State Educational Agency is the Virginia Department of Education.

anytime. If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked). If the parent or parents revoke consent for the child to continue to receive special education and related services, the LEA must follow the procedures for eligibility in the Virginia regulations at 8 VAC 20-80-56 to terminate the child's eligibility or use other measures as necessary to ensure that parental revocation of consent will not result in the withdrawal of a necessary FAPE for the child;

- Evaluation means procedures used in accordance with the IDEA '04 §1414 (a) through (c) and the current federal regulations, 34 CFR §§ 300.530-300.536, "Procedures for Evaluation and Determination of Eligibility", not impacted by the IDEA '04, to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs; and
- Personally identifiable means information that includes the name of the child, the child's parent, or other family member; the address of the child; a personal identifier, such as the child's social security number or student number; or a list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.

### **III. Opportunity to examine records; parent participation in meetings**

The parents of a child with a disability must be afforded an opportunity to:

- inspect and review all education records with respect to the identification, evaluation, and educational placement of the child; and the provision of a free appropriate public education (FAPE) to the child; and
- participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of FAPE to the child.

Parent participation in meetings.

- Each LEA shall provide notice indicating the purpose, date, time, location, and who will attend early enough to ensure that parents of children with disabilities have the opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of the child; and the provision of FAPE to the child. Meetings shall be scheduled at a mutually agreed on time and place.
- The notice must also inform the parent or parents that at their discretion or at the discretion of the LEA, other individuals who have knowledge or special expertise regarding the child, including related services personnel, as appropriate, may participate in meetings with respect to the identification, evaluation, and educational placement of the child and the provision of a FAPE to the child; and inform the parent that the determination of the knowledge or special expertise shall be made by the party who invited the individual.
- A meeting does not include informal or unscheduled conversations involving LEA personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision if those issues are not addressed in the child's (IEP). A meeting also does not include preparatory activities that LEA personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.
- The IEP may be amended after the annual IEP meeting without the necessity of calling a new IEP meeting, if the parents and the LEA agree to such action. The amendment or modification to the IEP must be in writing. The IEP can be amended, rather than be completely redrafted, unless the parent requests a revised copy with the amendments incorporated.
- Parents and LEA may jointly excuse an IEP team member from attending the IEP team meeting:
  - (1) because the area of the curriculum or related services is not being modified or discussed. The agreement to excuse an IEP team member must be in writing and include parent consent.
  - (2) A member may be excused even if their curriculum or service area is being discussed by the written agreement of the parent and the school division. The IEP team member shall submit their input to the team in writing.
- At the request of the parent, the LEA must invite the Part C coordinator or other representative of the Part C program to the IEP meeting for a child transitioning from Part C to Part B services.

Additional Virginia requirements for parent participation in meetings:

- A written copy of the evaluation report shall be provided to the parent or parents. The report shall be available to the parent or parents no later than two business days before the meeting to determine eligibility.
- The LEA shall permit the use of audio recording devices at IEP meetings. The parent or parents shall inform the LEA before the meeting in writing, unless the parents cannot write in English, that they will be audio recording the meeting. If the parent or parents do not inform the LEA, the parent or parents shall provide the LEA with a copy of the audio recording. The parent or parents shall provide their own audio equipment and materials for audio recording. If the LEA audio records the meetings or receives a copy of an audio recording from the parent or parents, the audio recording becomes part of the child's educational record.

- At the IEP meeting, the IEP team shall provide the parent or parents of a child with a disability with a written description of the factors that will be considered during the IEP meeting. The description shall be written in language understandable by the general public and provided in the native language of the parent or parents or other mode of communication used by the parent or parents, unless it is clearly not feasible to do so.

Parent involvement in placement decisions.

- Each LEA shall ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child including any Comprehensive Services Act team that makes decisions on the educational placement of their child.
- In implementing the requirements of the previous bullet the LEA shall use procedures consistent with the procedures to indicate the purpose, time, location, and who will attend early enough to ensure participation. Meetings shall be scheduled at a mutually agreed on time and place.
- If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the LEA shall use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing.
- A placement decision may be made by a group without the involvement of the parents, if the LEA is unable to obtain the parents' participation in the decision. In this case, the LEA must have a record of its attempts to ensure their involvement, including information that is consistent with the federal regulations implementing the IDEA.
- The LEA shall make reasonable efforts to ensure that the parents understand, and are able to participate in, any group discussions relating to the educational placement of their child, including arranging for an interpreter for parents with deafness, or whose native language is other than English.

#### **IV. Independent educational evaluation**

- The parents of a child with a disability have the right to obtain an independent educational evaluation of the child, subject to the subsequent requirements of this section.
- Each LEA shall provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the agency criteria applicable for independent educational evaluations.
- For the purposes of this part Independent educational evaluation (IEE) means an evaluation conducted by a qualified examiner who is not employed by the LEA responsible for the education of the child in question; and Public expense means that the LEA either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with federal regulations implementing the IDEA relative to methods and payments.

Parent right to evaluation at public expense.

- A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the LEA.
- If a parent requests an independent educational evaluation at public expense, the LEA must, without unnecessary delay, either initiate a due process hearing to show that its evaluation is appropriate; or ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing that the evaluation obtained by the parent did not meet agency criteria.
- If the LEA initiates a hearing and the final decision is that the agency's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.
- If a parent requests an independent educational evaluation, the LEA may ask for the parent's reason why he or she objects to the public evaluation. However, the explanation by the parent may not be required and the LEA may not unreasonably delay either providing the independent educational evaluation at public expense or initiating a due process hearing to defend the public evaluation.

Parent-initiated evaluations. If the parent obtains an independent educational evaluation at private expense, the results of the evaluation must be considered by the LEA, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the child; and may be presented as evidence at a hearing regarding that child.

Requests for evaluations by hearing officers. If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense.

#### Agency criteria.

- If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the LEA uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation.
- Except for the criteria described in the previous bullet, a LEA may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

#### **V. Prior notice by the public agency; content of notice**

##### Notice.

- Written notice that meets the requirements below must be given to the parents of a child with a disability within a reasonable time before the LEA proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child, including graduation with a standard or advanced studies diploma.
- If the notice relates to an action proposed by the LEA that also requires parental consent under, the LEA may give notice at the same time it requests parent consent.

##### Content of notice. The notice required above must include:

- a description of the action proposed or refused by the LEA;
- an explanation of why the LEA proposes or refuses to take the action;
- a description of any other options that the LEA considered and the reasons why those options were rejected;
- a description of each evaluation procedure, test, record, or report the LEA used as a basis for the proposed or refused action;
- a description of any other factors that are relevant to the LEA's proposal or refusal;
- a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and
- sources for parents to contact to obtain assistance in understanding the provisions of this part.

##### Notice in understandable language.

- The notice required above must be written in language understandable to the general public; and provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.
- If the native language or other mode of communication of the parent is not a written language, the LEA shall take steps to ensure that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication; that the parent understands the content of the notice; and that there is written evidence that the requirements have been met.
- A teacher or specialist may screen a student for the purposes of determining appropriate instructional strategies for curriculum implementation. This screening shall not be considered an evaluation for eligibility for special education and related services and does not require parental consent.

#### **VI. Parental consent**

- Informed parent consent must be obtained before conducting an initial evaluation or reevaluation, including a functional behavioral assessment if such assessment is not a review of existing data conducted at an IEP meeting, and initial provision of special education and related services to a child with a disability.
- Consent for initial evaluation may not be construed as consent for initial placement.
- Consent is required before the LEA provides special education and related services to the child.
- Parental consent is not required before reviewing existing data as part of an evaluation or a reevaluation; or administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children. Parental consent is not required before a teacher's or related services provider's observations or ongoing classroom evaluations or for the administration of a test or other evaluation that is used to measure progress on the child's goals and benchmarks or objectives and is included in the IEP.

##### Consent for wards of the state.

- If the child is a ward of the State and is not residing with the child's parent, the LEA shall make reasonable efforts to obtain the informed consent from the parent of the child for an initial evaluation to determine whether the child is a child with a disability. Such consent is not required if:

- (1) despite reasonable efforts to do so, the LEA cannot discover the whereabouts of the parent of the child;
- (2) the rights of the parents of the child have been terminated in accordance with State law; or
- (3) the rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.

#### Additional Virginia consent requirements.

- The LEA shall obtain parental consent for the initial eligibility determination. Thereafter, parental consent shall be secured for any change in identification of a child with a disability, and for any revision to the child's IEP.
- No changes shall be made to a child's eligibility for special education and related services without parental consent.
- Informed parent consent must be obtained before any partial or complete termination of special education and related services, except graduation with a standard or advanced studies diploma.
- If a child with a disability has been receiving special education from one LEA in Virginia and transfers to another, the new LEA is responsible for ensuring that the child has comparable special education and related services in consultation with the parents, until the new LEA either adopts the previous IEP or develops a new one.
- When a child with a disability under IDEA transfers to a LEA in Virginia from another state, the Virginia LEA must decide whether it will adopt the most recent evaluation and IEP developed for the child by the LEA in the previous state. The Virginia LEA must determine, as an initial matter, whether it believes that the child has a disability and whether the most recent evaluation of the child conducted by the LEA in the previous state and the IEP developed by that LEA meet the requirements of IDEA. The new LEA shall provide comparable services in consultation with the parents, until the new LEA conducts a new evaluation, if necessary, and develops a new IEP.
- Informed parent consent must be obtained each time the LEA proposes to access the parent's or parents' public private insurance proceeds.

#### Refusal.

- If the parents of a child with a disability refuse consent for initial evaluation or the parent fails to respond to a request to provide consent, the LEA may continue to pursue those evaluations by using the procedures for due process or mediation.
- The LEA shall seek to obtain informed consent from the parent of a child before providing initial special education and related services to the child.
- If the parent refuses to consent to the initial services, the LEA shall not pursue obtaining such consent by utilizing the due process procedures.
- If the parent of a child with a disability refuses to consent to the receipt of special education and related services, or the parent fails to respond to a request to provide such consent:
  - (1) the LEA shall not be considered to be in violation of the requirement to make available a free appropriate public education to the child for the failure to provide such child with the special education and related services for which the LEA requests for such consent; and
  - (2) the LEA shall not be required to convene an IEP meeting or develop an IEP for the child for the special education and related services for which the LEA requests such consent.
- The LEA may initiate a due process hearing to resolve consent disagreements regarding continuing IEPs.

#### Failure to respond to request for reevaluation.

- Informed parental consent need not be obtained for reevaluation if the LEA can demonstrate that it has taken reasonable measures to obtain that consent, and the child's parent has failed to respond, the LEA shall proceed as if consent has been given by the parent or parents.
- To meet the reasonable measures requirement, the LEA must have a record of its attempts to arrange a mutually agreed on time and place, such as detailed records of telephone calls made or attempted and the results of those calls; copies of correspondence sent to the parents and any responses received; and detailed records of visits made to the parent's home or place of employment and the results of those visits.

Limitation. The LEA may not use a parent's refusal to consent to one service or activity under this consent section to deny the parent or child any other service, benefit, or activity of the LEA, except as required by this part.

## **VII. Mediation**

Each LEA shall ensure that the parent or parents of a child with a disability are informed of the option of mediation to resolve any matter, including matters arising prior to the filing of a request for due process, related to the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

- The LEA shall use the Virginia Department of Education's mediation process to resolve such disputes.
- The procedures must ensure that the mediation process is voluntary on the part of the parties; is not used to deny or delay a parent's right to a due process hearing, or to deny any other rights afforded under the IDEA; and is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.
- The Virginia Department of Education shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services. The mediator shall be chosen on a rotation basis.
- The Virginia Department of Education shall bear the cost of the mediation process, including the costs of meetings to encourage mediation.
- Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute.
- Each mediation process shall conclude with a written mediation agreement if an agreement is reached by the parties to the dispute. The agreement is a legally binding agreement that sets forth the resolution and:
  - (1) states that all discussions that occurred during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding;
  - (2) is signed by both the parent and a representative of the LEA who has the authority to bind the LEA; and
  - (3) is enforceable in any State court of competent jurisdiction or in a district court of the United States.

An individual who serves as a mediator:

- May not be an employee of any LEA or the Virginia Department of Education if it is providing direct services to a child who is the subject of the mediation process;
- Must not have a personal or professional conflict of interest; and
- Is not an employee of the LEA or the Virginia Department of Education solely because the person is paid by the agency to serve as a mediator.

Meeting to encourage mediation.

- The LEA may establish procedures to offer parents and schools that choose not to use the mediation process an opportunity to meet, at a time and location convenient to the parent or parents, with a disinterested party who is under contract with a parent training and information center or community parent resource center in Virginia established under the IDEA; or an appropriate alternative dispute resolution entity. The purpose of the meeting is to explain the benefits of and encourage the use of the process.
- The LEA may not deny or delay a parent's or parents' right to a due process hearing if the parent or parents choose not to participate in this meeting.

## **VIII. Impartial due process hearing**

The Virginia Department of Education administers a special education due process hearing system that provides procedures for the training of hearing officers, requests for a hearing, appointment of hearing officers, the management and monitoring of hearings, and the administration of the hearing system. The Virginia Department of Education is responsible for the operation of the due process system; however, the LEA shares responsibility for the hearing process by ensuring the timely appointment of officers, communicating with the Virginia Department of Education, assisting with the hearing, and implementing the hearing officer's decision. A hearing officer's decision may be appealed directly to any state court of competent jurisdiction or to a district court of the United States.

- Either a parent or parents or a LEA may request a hearing when a disagreement arises regarding the identification of a child with a disability, evaluation of a child with a disability (including disagreements regarding payment for an independent educational evaluation), educational placement and services of the child, and the provision of a FAPE to the child.
- The request for a hearing shall be made within 2 years of the date the parent or LEA knew or should have known about the alleged action that forms the basis of the request. Exceptions to the timeline apply if the parent was prevented from requesting the hearing due to:
  - (1) specific misrepresentations by the LEA that it had resolved the problem forming the basis of the complaint; or
  - (2) the LEA's withholding of information from the parent that was required under the requirements to be provided to the parent.
- The LEA shall upon receipt of a request for a due process hearing, inform the parent or parents of the availability of mediation and of any free or low-cost legal and other relevant services available in the area. The LEA must also provide the parent or parents with a procedural safeguards notice.

- The LEA shall appoint the hearing officer within five business days of the request for a hearing. The LEA contacts the Supreme Court of Virginia to secure the name of a hearing officer, contacts the hearing officer to confirm availability, and upon acceptance, appoints the hearing officer in writing, with a copy to the Virginia Department of Education. In the case of an expedited hearing, the LEA must appoint the hearing officer within three business days of the request for a hearing.
- In circumstances involving disciplinary actions, the parent or parents of a student with a disability may request an expedited due process hearing if the parent or parents disagree with a determination that the child's behavior was not a manifestation of the child's disability, or any decision regarding placement under the disciplinary procedures.
- The LEA may request an expedited hearing if the LEA maintains that it is dangerous for the child to be in the current placement (placement prior to removal to the interim alternative setting) during the pendency of the due process proceedings.

#### Procedure for requesting a due process hearing.

- A request for a hearing shall be made in writing to the LEA, with a copy to the Virginia Department of Education. If the request is received solely by the Virginia Department of Education, the Virginia Department of Education shall immediately notify the LEA by telephone or by facsimile and forward a copy of the request to the LEA within one day of the Virginia Department of Education's receipt, including those cases where mediation is requested. The request for a hearing shall be kept confidential by the LEA and the Virginia Department of Education.

#### Parent notice to the LEA.

- The LEA must have procedures that require the parent of a child with a disability or the attorney representing the child to provide notice (which must remain confidential) to the LEA in a request for a due process hearing.
- Content of parent notice. The notice must include the name of the child, the address of the residence of the child, the name of the school the child is attending, a description of the child's problem relating to the proposed or refused initiation or change including facts relating to the problem, and a proposed resolution of the problem to the extent known and available to the parent at the time of the notice. In the case of a homeless child or youth (within the meaning of §752(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 1143a(2)), available contact information is needed for the child and the name of the school the child is attending.
- A party may not have a due process hearing until the party, or the attorney representing the party, files a notice that meets the content requirements.
- Model form to assist parents. The Virginia Department of Education shall develop a model form to assist parents in filing a request for due process that includes the information required in this section.
- Right to due process hearing. A LEA may not deny or delay a parent's right to a due process hearing for failure to provide the notice required in this section.
- The party requesting the due process hearing shall not be allowed to raise issues at the due process hearing that were not raised in the notice, unless the other party agrees otherwise.

#### Challenging the request for a due process hearing.

- The due process notice shall be deemed to be sufficient unless the party receiving the notice notifies the hearing officer and the other party in writing within 15 days of receiving the notice that the receiving party believes the notice has not met the content requirements.
- Within 5 days of receipt of the notification that the notice is deficient, the hearing officer shall make a determination on the face of the notice of whether the notification meets the content requirements. The hearing officer shall notify the parties in writing of such determination.
- A party may amend its due process notice only if:
  - (1) the other party consents in writing to such amendment and is given the opportunity to resolve the issues through a resolution meeting noted below; or
  - (2) the hearing officer grants permission, except that the hearing officer may only grant such permission at any time not later than 5 days before a due process hearing occurs.
- The timeline for a due process hearing shall recommence at the time the party files an amended notice, including the timeline for the resolution session process.

#### Response to the notice for a due process hearing.

##### Written Prior Notice

- If the LEA has not sent a prior written notice to the parent regarding the issues raised by the parent, the LEA shall, within 10 days of receiving the notice, send to the parent a response that shall include:
  - (1) an explanation of why the LEA proposed or refused to take the action raised in the notice;

- (2) a description of other options that the IEP team considered and the reasons why those options were rejected;
  - (3) a description of each evaluation procedures, assessment, record, or report the LEA used as the basis for the proposed or refused action; and
  - (4) a description of the factors that are relevant to the LEA's proposal or refusal.
- This notification shall not be construed to preclude the LEA from asserting that the parent's due process notice was insufficient where appropriate.

#### Response to the Notice

- The non-complaining party shall, within 10 days of receiving the notice for a due process hearing shall send to the complaining party a response that specifically addresses the issues raised in the notice.

#### Resolution Session.

- Within 15 days of receiving notice of the parents' complaint, the LEA shall convene a meeting with the parents and the relevant member or members of the IEP team who have specific knowledge of the facts identified in the notice requesting due process.
- The parents and the LEA may agree in writing to waive the resolution session, or agree to use the mediation process.
- The team shall include a representative of the LEA who has decision-making authority on behalf of the LEA.
- The team shall not include an attorney of the LEA unless the parent is accompanied by an attorney.
- During the resolution session, the parents of the child discuss their issues in the notice, and the LEA is provided the opportunity to resolve the issues.
- If the LEA has not resolved the issues to the satisfaction of the parents within 30 days of the receipt of the notice, the due process hearing may occur, and all of the applicable timelines for a due process hearing shall commence.
- If resolution is reached, the parties shall execute a legally binding agreement that is:
  - (1) signed by both the parent and a representative of the LEA who has the authority to bind the LEA; and
  - (2) enforceable in any State court of competent jurisdiction or in a district court of the United States.
- If the parties execute an agreement, a party may void such agreement within 3 business days of the agreement's execution.

#### Impartial hearing officer.

A hearing officer is appointed to a case from a list maintained by the Supreme Court of Virginia.

Upon request, the Virginia Department of Education shall share information on qualifications of the hearing officer with the parent or parents and the LEA, and either party has two business days to object to the appointment on the basis of conflict of interest.

A hearing shall not be conducted by a person who:

- has a personal or professional interest which would conflict with that person's objectivity in the hearing;
- is an employee of the Virginia Department of Education or the LEA that is involved in the education and care of the child. A person who otherwise qualifies to conduct a hearing is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer.
- represents schools or parents in any matter involving special education or disability rights, or is an employee of any parent rights agency or organization, or disability rights agency or organization.

If a hearing officer recuses himself or herself or is otherwise disqualified, the LEA shall ensure that another hearing officer is promptly appointed.

A hearing officer shall:

- possess knowledge of, and the ability to understand, the provisions of the law and regulations governing special education, and legal interpretations by federal and state courts;
- possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and
- possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.

#### Hearing rights.

Any party to a hearing has the right to:

- be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;

- present evidence and confront, cross-examine, and request that the hearing officer compel the attendance of witnesses;
- move that the hearing officer prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing, or in the case of an expedited hearing, two business days before the hearing;
- obtain at no cost a written, or, at the option of the parents, electronic, verbatim record of the hearing; and
- obtain at no cost a written, or, at the option of the parents, electronic findings of fact and decisions.

#### Additional disclosure of information.

- At least five business days prior to a non-expedited hearing and two business days prior to an expedited hearing, each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.
- A hearing officer may bar any party that fails to comply with the required timeline from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

Parents involved in hearings must be given the right to have the child who is the subject of the hearing be present and to open the hearing to the public.

#### Decision of the hearing officer.

- A decision made by a hearing officer shall be made on substantive grounds based on a determination of whether the child received a free appropriate public education.
- In matters alleging a procedural violation, a hearing officer may find that a child did not receive FAPE only if the procedural inadequacies:
  - (1) impeded the child's right to a free appropriate public education;
  - (2) significantly impeded the parents' opportunity to participate in the decision-making process regarding the provision of a free appropriate public education to the parents' child; or
  - (3) caused a deprivation of educational benefits.

Nothing in these requirements shall be construed to preclude a hearing officer from ordering the LEA to comply with procedural requirements under the law and regulations governing special education.

- Nothing in these requirements shall be construed to affect the right of a parent to file a complaint with the Virginia Department of Education.
- A decision by the hearing officer in any hearing, including an expedited hearing, shall be final and binding unless the decision is appealed by a party in state circuit court within one year of the issuance of the decision or in a federal district court within 90 days from the date of the hearing officer's decision. The appeal may be filed in either a state circuit court or a federal district court without regard to the amount in controversy. The district courts of the United States have jurisdiction over actions brought under § 1415 of the IDEA without regard to the amount in controversy.
- On appeal, the court shall receive the record of the administrative proceedings, shall hear additional evidence at the request of a party, shall base its decision on a preponderance of evidence, and shall grant the relief that the court determines to be appropriate.
- If the hearing officer's decision is appealed in court, implementation of the hearing officer's order is held in abeyance except in those cases where the hearing officer has agreed with the child's parent or parents that a change in placement is appropriate in accordance with Virginia Regulations. In those cases, the hearing officer's order must be implemented while the case is being appealed.

#### Findings and decisions to advisory panel and general public.

The Virginia Department of Education, after deleting any personally identifiable information, shall transmit the findings and decisions to the state advisory panel (State Special Education Advisory Committee in Virginia), and make those findings and decisions available to the public.

#### Timelines.

- The hearing officer shall ensure that not later than 45 calendar days after the receipt of a request for a hearing a final decision is reached in the hearing; and a copy of the decision is mailed to each of the parties. The timeline for an expedited hearing is 30 school days. The hearing must be scheduled within 20 school days of receipt of the request for due process. The hearing officer's decision must be sent to the parties within 10 school days after the hearing.
- With the exception of an expedited hearing, a hearing officer may grant specific extensions of time beyond the 45 calendar day period at the request of either party only when it serves the best interest of the child. For expedited hearings, the timeline may not be extended without exception.
- Each hearing involving oral arguments must be conducted at a time and place that is reasonably convenient to the parents and child involved.

#### Civil action.

Any party aggrieved by the findings and decision in a due process hearing has the right to bring a civil action. The action may be brought in any state court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.

#### The court shall:

- receive the records of the administrative proceedings;
- hear additional evidence at the request of a party; and
- basing its decision on the preponderance of the evidence, grant the relief that the court determines to be appropriate.

Jurisdiction of district courts. The district courts of the United States have jurisdiction of actions brought under §1415 IDEA without regard to the amount in controversy.

Nothing in the IDEA or its implementing regulations restricts or limits the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973, as amended, or other federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under §1415 of the IDEA, the procedures for due process must be exhausted to the same extent as would be required had the action been brought under §1415 of the IDEA.

#### Attorneys' fees.

In any action or proceeding brought under §1415 of the IDEA, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to:

- the parents of a child with a disability who is the prevailing party;
- the state educational agency or LEA who is the prevailing party, against the attorney of a parent who files a notice for a due process hearing or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or
- the state educational agency or LEA against the attorney of a parent, or against the parent, if the parent's notice for a due process hearing or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

Funds under Part B of the IDEA may not be used to pay attorneys' fees or costs of a party related to an action or proceeding under §1415 of the IDEA and implementing federal regulations, subpart E. That section does not preclude the LEA from using funds under Part B of the IDEA for conducting an action or proceeding under §1415 of the IDEA.

A court awards reasonable attorney's fees consistent with the following:

- Determination of amount of attorneys' fees. Fees awarded must be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this subsection.
- Prohibition of attorneys' fees and related costs for certain services.

Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under §1415 of the IDEA for services performed subsequent to the time of a written offer of settlement to a parent if:

- The offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than 10 days before the proceeding begins;
- The offer is not accepted within 10 days; and
- The court or administrative hearing officer finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement.

Attorneys' fees may not be awarded relating to any meeting of the IEP team unless the meeting is convened as a result of an administrative proceeding or judicial action for a mediation that is conducted prior to the filing of a request for due process.

- A meeting conducted as the Resolution Session shall not be considered a meeting convened as a result of an administrative hearing or judicial action; or an administrative hearing or judicial action for purposes of this requirement.

Exception to prohibition on attorneys' fees and related costs.

Notwithstanding the prohibition of attorney's fees and related costs for certain services, an award of attorneys' fees and related costs may be made to a parent who is the prevailing party and who was substantially justified in rejecting the settlement offer.

Reduction of amount of attorneys' fees.

The court reduces, accordingly, the amount of the attorneys' fees awarded under §1415 of the IDEA, if the court finds that the parent, or the parent's attorney, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy; the amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience; the time spent and legal services furnished were excessive considering the nature of the action or proceeding; or the attorney representing the parent did not provide to the school division the appropriate information in the due process notice.

Exception to reduction in amount of attorneys' fees. The provisions above do not apply in any action or proceeding if the court finds that the State or local agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of §1415 of the IDEA.

Child's status during proceedings.

During the pendency of any administrative or judicial proceeding unless the State or local agency and the parents of the child agree otherwise, the child involved in the proceeding must remain in his or her current educational placement. The exceptions are:

- In matters involving disciplinary actions, and a due process hearing is requested, the child shall remain in the interim alternative educational setting pending the decision of the hearing office or until the expiration of the time period provided for in the interim alternative educational setting, whichever occurs first, unless the parent and the state or LEA agree otherwise.
- If the proceeding involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school until the completion of all the proceedings.
- If the decision of a hearing officer agrees with the child's parents that a change of placement is appropriate, that placement must be treated as an agreement between the LEA and the parents for purposes of maintaining the child's placement during the pendency of any administrative or judicial proceeding.
- If the parent or parents request a due process hearing to challenge the child's removal from a placement that was made for noneducational reasons by a Comprehensive Services Act team, the child shall remain in the previous IEP placement agreed upon by the parent or parents and the LEA prior to placement by the Comprehensive Services Act team.

## **IX. Surrogate parents**

Each LEA shall ensure that the rights of a child are protected if:

- No parent as defined in this document can be identified; or
- The LEA, after reasonable efforts, cannot discover the whereabouts of a parent.
- The child is a ward of the state, such surrogate may alternatively be appointed by the judge overseeing the child's care provided that the surrogate meets the requirements of a surrogate.
- The child is an unaccompanied homeless youth as defined in §725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 1143a(6)), the LEA shall appoint a surrogate.

A surrogate parent shall be appointed as the educational representative for a child who reaches the age of majority if the LEA has received written notification that the child is not competent to provide informed consent and no family member is available to serve as the child's educational representative.

Children, aged two to 21, inclusive, who are suspected of having or determined to have disabilities do not require a surrogate parent if:

- The natural parent or parents or guardians are allowing relatives or private individuals to act as a parent;
- The child is in the custody of the local department of social services or a licensed child-placing agency, and termination of parental rights has been granted by a juvenile and domestic relations district court of competent jurisdiction in accordance with § 16.1-283, § 16.1-277.01, or § 16.1-277.02 of the Code of Virginia. The foster parent for that child may serve as the parent of the child for the purposes of any special education proceedings; or
- The child is in the custody of a local department of social services or a licensed child-placing agency, and a permanent foster care placement order has been entered by a juvenile and domestic relations district court of competent jurisdiction in accordance with § 63.1-206.1 of the Code of Virginia. The permanent foster parent named in the order for that child may serve as the parent of the child for the purposes of any special education proceedings.

Duty of LEA. The duty of the LEA under this section includes the assignment of an individual to act as a surrogate for the parents. This must include a method:

- for determining whether a child needs a surrogate parent; and
- for assigning a surrogate parent to the child not more than 30 days after there is a determination by the LEA that the child needs a surrogate.

Criteria for selection of surrogates. The LEA may select a surrogate parent in any way permitted under state law. Local educational agencies shall ensure that a person selected as a surrogate:

- is not an employee of the Virginia Department of Education, the LEA, or any other agency that is involved in the education or care of the child;
- has no interest that conflicts with the interest of the child he or she represents; and
- has knowledge and skills that ensure adequate representation of the child.

The LEA may select as a surrogate a person who is an employee of a nonpublic agency that only provides non-educational care for the child and who meets the previous criteria.

Non-employee requirement; compensation. A person who otherwise qualifies to be a surrogate parent is not an employee of the LEA solely because he or she is paid by the LEA to serve as a surrogate parent.

Responsibilities. The surrogate parent may represent the child in all matters relating to:

- the identification, evaluation, and educational placement of the child; and
- the provision of FAPE to the child.

## **X. Discipline procedures**

A student with a disability shall be entitled to the same due process rights that all students are entitled to under the Code of Virginia and the LEA's disciplinary policies and procedures.

For purposes of removals of a child with a disability from the child's current educational placement, a change of placement occurs if:

- The removal is for more than 10 consecutive school days; or
- The child is subjected to a series of removals that constitute a pattern because they cumulate to more than 10 school days in a school year, and because of factors such as the length of each removal, the total amount of time the child is removed, and the proximity of the removals to one another.

Authority of school personnel.

School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a child with a disability who violates a code of student conduct. School personnel may order:

- To the extent removal would be applied to children without disabilities, the removal of a child with a disability from the child's current placement for not more than 10 consecutive school days for any violation of school rules, and additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct as long as those removals do not constitute a change of placement. After a child with a disability has been removed from his or her current placement for more than 10 school days in the same school year, during any subsequent days of removal the LEA must provide services to the extent required for children suspended or expelled from school; and
- A change in placement of a child with a disability to an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, but for not more than 45 school days, if:
  - (1) the child possesses or carries a weapon to school or to a school function under the jurisdiction of the Virginia Department of Education or a LEA; or
  - (2) the child knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function under the jurisdiction of a State or LEA; or
  - (3) the child has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the Virginia Department of Education or LEA.

The LEA shall ensure that the following procedures are implemented either before or not later than 10 business days after either first removing the student for more than 10 school days in a school year or commencing a removal that constitutes a change in placement including placements in interim alternative educational settings.

- The IEP team shall convene to develop a behavioral assessment plan if the LEA did not conduct a functional behavioral assessment and implement a behavioral plan for the student before the behavior resulted in the removal.
- The functional behavioral assessment may be a review of existing data that can be completed at the IEP meeting. Parental consent is not necessary to review existing data.
- The IEP team shall reconvene as soon as practicable after developing the assessment plan and completing the assessments required by the plan. The IEP team shall develop and implement appropriate behavioral interventions to address the behavior.
- If the student had a behavioral intervention plan before engaging in the behavior, the IEP team shall convene to review the plan and its implementation and modify the plan and its implementation, as necessary, to address the behavior.

As soon as practicable after developing the behavioral intervention plan, and completing the assessments required by the plan, the LEA shall convene an IEP meeting to develop appropriate behavioral interventions to address that behavior and shall implement those interventions.

If, subsequently, a child with a disability who has a behavioral intervention plan and who has been removed from the child's current educational placement for more than 10 school days in a school year is subjected to a removal that does not constitute a change of placement for disciplinary removals, the IEP team members shall review the behavioral intervention plan and its implementation to determine if modifications are necessary. If one or more of the team members believe that modifications are needed, the team shall meet to modify the plan and its implementation to the extent the team determines necessary.

For purposes of this section, the following definitions apply:

- Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 USC 812(c)).
- Illegal drug means a controlled substance, but does not include a substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.
- Weapon has the meaning given the term "dangerous weapon" under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code, as well as any weapon defined as a dangerous weapon in the Code of Virginia.
- Serious bodily injury means a bodily injury that involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss of impairment of the function of a bodily member, organ, or mental faculty. (U.S.C. 1365 (g))

Authority of hearing officer.

A hearing officer may order a change in placement of a child with a disability. The hearing officer may:

- return the child to the placement from which the child was removed; or
- order a change in placement of the child to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of such child is substantially likely to result in injury to the child or to others.

The hearing officer must

- consider the appropriateness of the child's current placement;
- consider whether the LEA has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services; and
- determine that the interim alternative educational setting that is proposed by school personnel who have consulted with the child's special education teacher meets the requirements of the IDEA implementing regulations.

The LEA may ask the hearing officer for an extension of 45 school days for the interim alternative educational setting of a student with a disability when school personnel believe that the student's return to the regular placement would be dangerous to the student or others.

Determination of setting.

The interim alternative educational setting must be determined by the IEP team.

Any interim alternative educational setting in which a child is placed for 45 school days for weapons, drugs, or serious bodily injury by authority of school personnel or by a hearing officer when there is substantial evidence that maintaining the current placement is likely to result in injury to the child or others must:

- be selected so as to enable the child to continue to progress in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the child's current IEP, that will enable the child to meet the goals set out in that IEP; and
- include services and modifications to address the behavior and are designed to prevent the behavior from recurring.

#### Manifestation determination review.

Manifestation determinations are required if the LEA is contemplating a removal that constitutes a change of placement for a child with a disability who has engaged in other behavior that violated any rule or code of conduct of the LEA that applies to all children:

- The LEA shall notify the parent or parents of that decision and provide the parent or parents with the procedural safeguards notice not later than the date on which the decision to take the action is made.
- The LEA, the parent, and relevant members of the IEP team shall convene immediately, if possible, but not later than 10 school days after the date on which the decision to take the action is made. The other qualified personnel may include individuals who are knowledgeable about how a student's disability can impact on behavior or on understanding, who understand the impact and consequences of behavior, or who are knowledgeable about the student and the student's disability.

#### Conduct of review.

The LEA, the parent, and relevant members of the IEP team (as determined by the parent and the LEA) shall review all relevant information in the student's file, including the child's IEP, and teacher observations, and any relevant information provided by the parents to determine:

- if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
- if the conduct in question was the direct result of the LEA's failure to implement the IEP.

If the LEA, the parent, and relevant members of the IEP team determine that either of these elements is applicable to the child, the conduct shall be determined to be a manifestation of the child's disability. The team shall:

- conduct a functional behavioral assessment, and implement a behavioral intervention plan for such child, provided that the LEA had not conducted such assessment prior to such determination before the behavior that resulted in a change in placement;
- in the situation where a behavioral intervention plan has been developed, review the plan and modify it, as necessary, to address the behavior; and
- return the child to the placement from which the child was removed, unless the parent and the local education agency agree to a change of placement as part of the modification of the behavioral intervention plan. The exception is when school personnel have removed a student to an interim alternative educational setting for not more than 45 school days for cases where the child is involved with a disciplinary action related to a weapon, knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, or has inflicted serious bodily injury, in accordance with the provisions noted above. In these cases, the interim alternative educational setting shall be determined by the IEP team.

#### Determination that behavior was not manifestation of disability.

If the result of the review is a determination that the behavior of the child with a disability was not a manifestation of the child's disability, the relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner in which they would be applied to children without disabilities, except that FAPE continues for children suspended or expelled from school.

If the LEA initiates disciplinary procedures applicable to all children, the agency shall ensure that the special education and disciplinary records of the child with a disability are transmitted for consideration by the person or persons making the final determination regarding the disciplinary action.

#### Appeals.

The parent of a child with a disability who disagrees with any decision regarding placement relative to disciplinary action, or the manifestation determination, or a LEA that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others, may request a hearing.

- When an appeal has been requested by either the parent or the local education agency, the Virginia Department of Education and the LEA shall arrange for an expedited hearing, which shall occur within 20

school days of the date the hearing is requested and shall result in a determination within 10 school days after the hearing.

Child's status during due process proceedings.

- The child shall remain in the disciplinary setting pending the decision of the hearing officer or until the expiration of the removal time, whichever occur first, unless the parent and the Virginia Department of Education or LEA agree otherwise.
- The IEP team determines the extent to which services are necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP.

Review of decision.

- In reviewing a decision with respect to the manifestation determination, the hearing officer shall determine whether the LEA has demonstrated that the child's behavior was not a manifestation of the child's disability consistent with the requirements.
- In reviewing a decision to place the child in an interim alternative educational setting, the hearing officer shall apply the standards in federal and state implementing regulations.
- A placement ordered by the hearing officer under the procedures for an expedited due process hearing may not be longer than 45 school days. If the LEA believes that it is dangerous for the student to return to the current placement, the LEA may request of the hearing officer to extend the placement for longer than 45 school days.

Protections for children not yet eligible for special education and related services.

A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violated any rule or code of conduct of the LEA may assert any of the protections provided for in this part if the LEA had knowledge that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

Basis of knowledge. The LEA must be deemed to have knowledge that a child is a child with a disability if:

- The parent of the child has expressed concern in writing (or orally if the parent does not know how to write or has a disability that prevents a written statement) to personnel of the appropriate educational agency that the child is in need of special education and related services;
- The parent of the child has requested an evaluation of the child pursuant to the IDEA requirements, or
- The teacher of the child, or other personnel of the LEA, has expressed concern about a pattern of behavior demonstrated by the child, directly to the director of special education of the agency or to other personnel in accordance with the agency's established child find or special education referral system.

Exception.

The LEA would not be deemed to have knowledge:

- If the parent of the child has not allowed an evaluation of the child pursuant to the IDEA requirements, or has refused services under this part, or the child has been evaluated and it was determined that the child was not a child with a disability under IDEA, or
- determined that an evaluation was not necessary; and
- provided notice to the child's parents of its determination.

Conditions that apply if no basis of knowledge.

- If the LEA does not have knowledge that a child is a child with a disability prior to taking disciplinary measures against the child, the child may be subjected to the same disciplinary measures as measures applied to children without disabilities who engaged in comparable behaviors.

Limitations.

- If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures, the evaluation must be conducted in an expedited manner.
- Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.
- If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the LEA and information provided by the parents, the LEA shall provide special education and related services in accordance with the provisions of this part.

Referral to and action by law enforcement and judicial authorities.

Nothing in IDEA or the Virginia regulations prohibits the LEA from reporting a crime committed by a child with a disability to appropriate authorities or to prevent state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a child with a disability to the extent such action applies to students without a disability.

In reporting the crime, the LEA shall ensure that copies of the special education and disciplinary records are transmitted for consideration by the appropriate authorities to whom school personnel report the crime. Transmission of such records shall be in accordance with requirements under the Management of the Student's Scholastic Records in the Public Schools of Virginia.

#### **XI. Children with disabilities enrolled by their parents in private schools when FAPE is at issue**

Placement of children by parents if FAPE is at issue.

The IDEA does not require a local school division to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that local school division made FAPE available to the child and the parents elected to place the child in a private school or facility. However, the local school division shall include that child in the population whose needs are addressed consistent with IDEA and implementing regulations.

Disagreements about FAPE.

Disagreements between a parent and a local school division regarding the availability of a program appropriate for the child, and the question of financial responsibility, are subject to the due process procedures.

Reimbursement for private school placement.

If the parents of a child with a disability, who previously received special education and related services under the authority of a local school division, enroll the child in a private preschool, elementary, or secondary school without the consent of or referral by the local school division, a court or a hearing officer may require the local school division to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made FAPE available to the child in a timely manner prior to that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the State standards that apply to education provided by the Virginia Department of Education and local school divisions.

Limitation on reimbursement.

The cost of reimbursement described in the previous paragraph may be reduced or denied:

- If, at the most recent IEP meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP team that they were rejecting the placement proposed by the LEA to provide FAPE to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or at least ten (10) business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the local school division of the information described immediately above.
- If, prior to the parents' removal of the child from the public school, the LEA informed the parents, through the notice requirements in IDEA and implementing regulations of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for the evaluation; or
- Upon a judicial finding of unreasonableness with respect to actions taken by the parents.

Exception.

Notwithstanding the notice requirement regarding limitation on reimbursement, the cost of reimbursement may not be reduced or denied for the parents' failure to provide the notice to the local school division if:

- The parent is illiterate and cannot write in English;
- Compliance with the notice requirement above would likely result in physical or serious emotional harm to the child;
- The school prevented the parent from providing the notice; or
- The parents had not received notice of the requirement that sets forth the limitation on reimbursement.

#### **XII. Confidentiality of information**

[Additional guidance is available on this subject in VDOE's "Guidelines for the Management of the Student's Scholastic Record in the Public Schools of Virginia",

<http://www.doe.virginia.gov/VDOE/StudentSrves/MSSRedit.pdf>

As used in this section:

Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

Education records means the type of records covered under the definition of "education records" in 34 CFR part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974 [FERPA])

Participating agency means any agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under IDEA. The Virginia regulations use the term LEA.

Notice to parents.

The Virginia Department of Education shall give notice that is adequate to fully inform parents about the requirements of Confidentiality of personally identifiable information, including:

- A description of the extent that the notice is given in the native languages of the various population groups in the state;
- A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;
- A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and
- A description of all of the rights of parents and children regarding this information, including The rights under the FERPA and implementing regulations in 34 CFR part 99.

Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the State of the activity.

Access rights.

Each LEA shall permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The LEA shall comply with a request without unnecessary delay and before any meeting regarding an IEP, or any due process hearing and in no case more than 45 days after the request has been made.

The right to inspect and review education records under this section includes:

- The right to a response from the LEA to reasonable requests for explanations and interpretations of the records;
- The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and
- The right to have a representative of the parent inspect and review the records.

The LEA may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

Record of access.

Each LEA shall keep a record of parties obtaining access to education records collected, maintained, or used under IDEA (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

Records on more than one child.

If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

List of types and locations of information.

Each participating agency shall provide parents, on request, a list of the types and locations of education records collected, maintained, or used by the LEA.

Fees.

Each participating agency may charge a fee for copies of records that are made for parents under IDEA if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.

A participating agency may not charge a fee to search for or to retrieve information for these purposes.

#### Amendment of records at parent's request.

A parent who believes that information in the education records collected, maintained, or used under IDEA is inaccurate or misleading or violates the privacy or other rights of the child may request the LEA that maintains the information to amend the information.

The LEA shall decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.

If the LEA decides to refuse to amend the information in accordance with the request, it shall inform the parent of the refusal and advise the parent of the right to a hearing.

#### Opportunity for a hearing.

The LEA shall, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

#### Result of hearing.

If, as a result of the hearing, the LEA decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it shall amend the information accordingly and so inform the parent in writing.

If, as a result of the hearing, the LEA decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it shall inform the parent of the right to place in the records it maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

Any explanation placed in the records of the child under this section must

- be maintained by the LEA as part of the records of the child as long as the record or contested portion is maintained by the agency; and
- if the records of the child or the contested portion is disclosed by the agency to any party, the explanation must also be disclosed to the party.

#### Hearing procedures.

A hearing held to challenge information in education records must be conducted according to the procedures under FERPA, 34 CFR 99.22.

#### Consent.

Except as for referrals to or actions by law enforcement and judicial authorities addressed in IDEA implementing regulations for which parental consent is not required by 34 CFR part 99, parental consent must be obtained before personally identifiable information is:

- disclosed to anyone other than officials of participating agencies collecting or using the information under this part; or
- used for any purpose other than meeting a requirement of this part.

The LEA or institution subject to 34 CFR part 99 may not release information from education records to participating agencies without parental consent unless authorized to do so under 34 CFR part 99.

In the event that a parent refuses to provide consent when requested, the LEA shall use established policies and procedures to document the LEA's efforts to obtain consent, resolve the dispute, and provide the parent with an explanation of the consequences if consent is not given.

#### Safeguards.

Each LEA shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

One official at each LEA shall assume responsibility for ensuring the confidentiality of any personally identifiable information.

All persons collecting or using personally identifiable information must receive training or instruction on Virginia's policies and procedures for ensuring confidentiality of information.

Each LEA shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

#### Destruction of information.

The LEA shall inform parents when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to the child.

The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

The LEA shall comply with the Records Retention and Disposition Schedule of the Library of Virginia

#### Children's rights.

The Virginia Department of Education shall provide policies and procedures regarding the extent to which children are afforded rights of privacy similar to those afforded to parents, taking into consideration the age of the child and type or severity of disability.

Under the regulations for 34 CFR part 99, the rights of parents regarding education records are transferred to the student at age 18.

If the rights accorded to parents under IDEA are transferred to a student who reaches the age of majority, the rights regarding educational records must also be transferred to the student. However, the LEA must provide any notice required under section 1415 of the IDEA to the student and the parents.

#### Enforcement.

The Virginia Department of Education shall provide the policies and procedures, including sanctions, that the State uses to ensure that its policies and procedures are followed and that the requirements of the IDEA and the regulations in this part are met.

#### Disciplinary information.

The Virginia Department of Education may require that a LEA include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit the statement to the same extent that the disciplinary information is included in, and transmitted with, the student records of children without disabilities.

The statement may include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child.

When the child transfers from one school to another, the transmission of any of the child's records must include both the child's current IEP and any statement of current or previous disciplinary action that has been taken against the child.

#### Department use of personally identifiable information.

If the U.S. Department of Education or its authorized representatives collect any personally identifiable information regarding children with disabilities that is not subject to 5 U.S.C. 552a (the Privacy Act of 1974), the U.S. Secretary of Education applies the requirements of 5 U.S.C. 552a (b)(1)- (2), (4)-(11); (c); (d); (e)(1), (2), (3)(A), (B), and (D), (5)-(10); (h); (m); and (n); and the regulations implementing those provisions in 34 CFR part 5b.

### **XIII. State complaint resolution procedures**

The Virginia Department of Education maintains and operates a complaint system that provides for the investigation and issuance of findings regarding violations of the rights of parents or children with disabilities. The Superintendent of Public Instruction or designee is responsible for the operation of the complaint system.

The Virginia Department of Education's complaint procedures shall be widely disseminated to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities.

In resolving a complaint in which a failure to provide appropriate services is found, the Virginia Department of Education must address:

- The remediation of the denial of those services, including, as appropriate, compensatory services, the awarding of monetary reimbursement, or other corrective action appropriate to the needs of the child; and
- Appropriate future provision of services for all children with disabilities.

Minimum State complaint procedures.

A time period of 60 calendar days applies after the written complaint is received to carry out the investigation and to resolve the complaint. An extension of the 60 calendar days time period may occur if exceptional circumstances exist with respect to a particular complaint. Both parties to the complaint will be notified in writing by the Virginia Department of Education of the exceptional circumstances and the extended time limit.

Upon receipt of a complaint, the Virginia Department of Education shall initiate an investigation to determine whether the LEA is in compliance with applicable law and regulations in accordance with the following procedures:

- Within seven business days of the receipt of the complaint, the Virginia Department of Education shall send written notification in writing to each complainant and LEA against which the violation has been alleged, acknowledging receipt of a complaint, and shall send copies to other appropriate Virginia Department of Education personnel.
- If a reply from the LEA is not filed with the Virginia Department of Education within 10 business days of the receipt of the notice, the Virginia Department of Education shall send a second notice to the LEA advising that failure to respond within seven business days of the date of such notice will result in review by the Superintendent of Public Instruction or designee for action regarding appropriate sanctions.

The Virginia Department of Education shall review the complaint and reply filed by the LEA to determine if further investigation or corrective action needs to be taken.

- If no further investigation or action is necessary, the Virginia Department of Education shall notify both parties in writing, stating the grounds for such finding.
- If further investigation is necessary, the Virginia Department of Education shall conduct an investigation of the complaint which shall include a complete review of all relevant documentation and may include an independent on-site investigation, if necessary.
- If the complaint is also the subject of a due process hearing or if it contains multiple issues of which one or more are part of that due process hearing, the Virginia Department of Education shall set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing, and resolve any issue in the complaint that is not a part of the due process hearing involving the same parties.
- If an issue raised in the complaint has previously been decided in a due process hearing involving the same parties, the Virginia Department of Education shall inform the complainant that the due process hearing decision is binding.

During the course of the investigation, the Virginia Department of Education shall:

- Consider all facts and issues presented and the applicable requirements specified in law, regulations, or standards.
- Make a determination of compliance or noncompliance on each issue based upon the facts and applicable law, regulations, or standards and notify the parties in writing of the findings and the basis for such findings.

The Virginia Department of Education shall:

- Ensure that the final decision is effectively implemented, if needed, through technical assistance activities, negotiations, and corrective actions to achieve compliance.
- Report findings of noncompliance and corresponding recommendations to the party designated by the Superintendent of Public Instruction for review, or where appropriate, directly to the Superintendent of Public Instruction for further action.
- Notify the parties in writing of any needed corrective actions and the specific steps that must be taken by the LEA to bring it into compliance. The LEA will be given 15 business days from the date of notice of noncompliance to respond and initiate corrective action.

In resolving a complaint in which a failure to provide appropriate services is found, the Virginia Department of Education must address:

- The remediation of the denial of those services, including, as appropriate, compensatory services, the awarding of monetary reimbursement, or other corrective action appropriate to the needs of the child; and
- Appropriate future provision of services for all children with disabilities.

When the LEA develops a plan of action to correct the violations, such plan shall include timelines to correct violations not to exceed 30 business days unless circumstances warrant otherwise. The plan of action will also include a description of all changes contemplated and shall be subject to approval of the Virginia Department of Education.

Parties to the complaint procedures shall have the right to appeal the final decision to the Virginia Department of Education within 30 calendar days of the issuance of the decision in accordance with procedures established by the Virginia Board of Education.

#### Filing a complaint.

A complaint may be filed by any individual, organization, or an individual from another state and must:

- Be in writing;
- Be signed by the complainant;
- Contain a statement that the LEA has violated the IDEA and implementing federal and state regulations and include the facts upon which the complaint is based;
- Address an action that occurred not more than one year prior to the date the complaint is received, unless the Virginia Department of Education determines that a longer period is reasonable because the violation is continuing, or the complainant is requesting compensatory services for a violation that occurred not more than three years prior to the date the complaint is received by the Virginia Department of Education; and
- Contain all relevant documents.

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Further explanation of procedural safeguards is available by contacting the LEA director of special education, local school division parent resource center, school principal, or the special education office at the Virginia Department of Education.