

Note to Members of the School Board – for February 12, 2013, Work Session:

- These policy changes were recommended substantially in the form presented here by the Superintendent’s Policy Review Committee at its meeting on December 6, 2012.
- Current CCPS language re “employee suspensions” duplicates the statute on this subject word-for-word.
- However, a literal reading of the statute (and our policy) creates some problems.
- For example...
  - CCPS policy and the statute read “*Except when a teacher or school employee is suspended because of being charged by summons, warrant, indictment or information with the commission of one of the above-listed criminal offenses.....*”
  - A literal reading of that provision would mean that the provision applies only if the teacher or other employee is charged with one – and only one (not two, three or four) – of the criminal offenses outlined in the policy/statute.
- VSBA Policy GCPF on the same subject corrects the problems caused by a literal reading of the statute – and we suggest making comparable changes to our policy.
- In addition, we have replaced the word “section” with “policy” in paragraphs E, F and G – again, as in VSBA Policy GCPF.
- If approved, these policy changes will become effective immediately upon adoption on March 12, 2013.

File: 5440  
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EMPLOYEE SUSPENSIONS

Grounds and Procedure for Suspension

A. A teacher or other public school employee, whether full-time or part-time, permanent, or temporary, may be suspended for good and just cause when the safety or welfare of the division or the students therein is threatened or when the teacher or school employee has been charged by summons, warrant, indictment or information with the commission of a felony; a misdemeanor involving (i) sexual assault as established in Article 7 (§ 18.2-61 *et seq.*) of Chapter 4 of Title 18.2 of the Code of Virginia, (ii) obscenity and related offenses as established in Article 5 (§ 18.2-372 *et seq.*) of Chapter 8 of Title 18.2 of the Code of Virginia (iii) drugs as established in Article 1 (§ 18.2-247 *et seq.*) of Chapter 7 of Title 18.2 of the Code of Virginia (iv) moral turpitude, or (v) the physical or sexual abuse or neglect of a child; or an equivalent offense in another state.

Except when a teacher or school employee is suspended because of being charged by summons, warrant, indictment or information with the commission of one **or more** of the above-listed criminal offenses, the Superintendent or his appropriate central office designee shall not suspend a teacher or school employee for longer than sixty days and shall not suspend a teacher or school employee for a period in excess of

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5 five days unless such teacher or school employee is advised in writing of the reason for  
6 the suspension and afforded an opportunity for a hearing before the School Board in  
7 accordance with Va. Code §§ 22.1-311 and 22.1-313, if applicable. Any teacher or other  
8 school employee so suspended shall continue to receive his or her then applicable  
9 salary unless and until the School Board, after a hearing, determines otherwise. No  
10 teacher or school employee shall be suspended solely on the basis of his or her refusal  
11 to submit to a polygraph examination requested by the School Board.  
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13 With the exception of school administrative personnel and employees  
14 who have the specific duty to deliver health-related services, no licensed instructional  
15 employee, instructional aide, or clerical employee shall be disciplined, placed on  
16 probation, or dismissed on the basis of such employee's refusal to (i) perform  
17 nonemergency health-related services for students or (ii) obtain training in the  
18 administration of insulin and glucagon. However, instructional aides and clerical  
19 employees may not refuse to dispense oral medications.  
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21 For the purposes of this policy, "health-related services" means those  
22 activities which, when performed in a health care facility, must be delivered by or under  
23 the supervision of a licensed or certified professional.  
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25 B. Any school employee suspended because of being charged by summons,  
26 warrant, information or indictment with one **or more** of the offenses listed herein above  
27 may be suspended with or without pay. In the event any school employee is suspended  
28 without pay, an amount equal to his or her salary while on suspended status shall be  
29 placed in an interest-bearing demand escrow account. Upon being found not guilty of **all**  
30 **such offenses** ~~one of the offenses listed herein above~~ or upon the dismissal or *nolle*  
31 *prosequi* of **all such charges** ~~the charge~~, such school employee shall be reinstated with  
32 all unpaid salary and accrued interest from the escrow account, less any earnings  
33 received by the school employee during the period of suspension, but in no event shall  
34 such payment exceed one year's salary.  
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36 C. In the event any school employee is found guilty by an appropriate court  
37 of one **or more** of the offenses listed herein above and, after all available appeals have  
38 been exhausted and such conviction is upheld, all funds in the escrow account shall be  
39 repaid to the School Board.  
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41 D. If an employee is suspended because of information appearing on his or  
42 her criminal history record, the School Board shall provide a copy of the information  
43 obtained from the Central Criminal Records Exchange to the employee.  
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45 E. No school employee shall have his or her insurance benefits suspended  
46 or terminated because of such suspension in accordance with this **policy section**.  
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48 F. Nothing in this **policy section** shall be construed to limit the authority of a  
49 School Board to dismiss or place on probation a teacher or school employee pursuant to  
50 Article 3 (§§ 22.1-306 *et seq.*) of the Code of Virginia.

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5 G. For the purposes of this **policy section**, the placing of a school employee  
6 on probation pursuant to the terms and conditions of Va. Code § 18.2-251 shall be  
7 deemed a finding of guilt.  
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10 **Revised:**

11 Revised: June 26, 2012  
12 Adopted: December 8, 2009  
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16 Legal Ref.: Code of Virginia, 1950, as amended, §§ 18.2-251, 19.2-83.1, 389, 22.1-  
17 296.1, 2.1-296.4, 22.1-315.

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19 Cross Ref.: 4111 Student Health Services and Requirements  
20 4130 Administration of Medication to Students  
21 4130-R Procedures for Administration of Medication to Students  
22 5030 Professional Ethics  
23 5320 Health and Dental Care Benefits  
24 5380/5380-R Drug and Alcohol-Free Workplace  
25 5420 Appeal Process for Demotion and Dismissal Procedure for  
26 Support Positions  
27 5460 Effect of Criminal Conviction of Founded Complaint of  
28 Child Abuse and Neglect  
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31 [VSBA: GCDA; GCPD]  
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