

Suspended Progress: 8 Recommendations for Lawmakers & Policymakers

By adopting the recommendations described below, state legislators, the Virginia Board of Education, and local school boards will make significant progress in alleviating Virginia's suspension and expulsion crisis described in Part 1 of this report.

General Assembly

#1: The General Assembly should provide school divisions with additional funding needed to implement proven methods of preventing and addressing misbehavior without using suspension and expulsion.

According to The Commonwealth Institute, budget cuts in 2009 reduced state support for public education in Virginia by approximately \$800 million per year, after adjusting for inflation. Consequently, by 2015, public schools were missing over 11,000 positions, including 4,200 teachers. This year, the General Assembly restored only a fraction of the cuts. Worse yet, the resource starvation has fallen hardest on low-wealth divisions – which typically have higher suspension rates – because they have less ability to generate local tax revenue for education and rely more heavily on state education funding than more affluent communities.

The General Assembly should allocate new, adequate, recurring funding to be used by divisions for proven and developmentally appropriate strategies for improving school climate, preventing student misbehavior, and productively intervening when misbehavior occurs. See Part 2 of this report for examples of such strategies. The funding should be distributed through a grant program administered by the Virginia Department of Education (VDOE). The grant program should give preference to divisions with high rates of suspension and/or disparities in the use of suspension. Finally, the VDOE should receive additional funding from the legislature to administer the grant program, provide technical assistance to divisions, and monitor and evaluate the implementation of interventions and alternatives in divisions.

#2: The General Assembly should pass legislation that appropriately limits the use of suspension and expulsion.

The General Assembly should pass legislation that promotes developmentally appropriate and fair school discipline by prohibiting:

- Out-of-school suspension and expulsion in pre-kindergarten through third grade;
- Long-term suspension and expulsion in fourth and fifth grades; and
- Long-term suspension and expulsion in grades 6 through 12 for relatively minor, non-violent offenses – including attendance, beepers, cellular phones, electronic devices, disrespect, defiance, disruptive demonstration, obscene/disruptive literature, classroom disruption, obscene language/gestures, minor insubordination, gambling, inappropriate personal property, misrepresentation, unauthorized use of technology, tobacco products, and electronic cigarette.

Definitions

Short-Term Suspension: Banning a student from school for up to 10 school days

Long-Term Suspension: Banning a student from school for 11 school days to 364 calendar days

Expulsion: Banning a student from school for one calendar year at a time

School divisions would still be permitted to use in-school suspension, alternative education, and other serious disciplinary consequences that, unlike long-term suspension and expulsion, keep students engaged in the educational process.

#3: The General Assembly should change the definition of “long-term suspension.”

Currently, state law (§ 22.1-276.01) defines long-term suspension as “any disciplinary action whereby a student is not permitted to attend school for more than 10 school days but less than 365 calendar days.” Therefore, long-term suspended students can effectively fail two school years and miss summer school – all for one mistake. The General Assembly should change the definition of long-term suspension to “between 11 and 90 school days.” The District of Columbia and states that border Virginia and have a statewide definition of long-term suspension have less punitive definitions of long-term suspension than Virginia. See Figure 1.

Figure 1: The definition of long-term suspension in the District of Columbia and states bordering Virginia

State	Definition of Long-Term Suspension	Citation
District of Columbia	“Suspension for eleven (11) to ninety (90) school days ”	D.C. MUN. REG. tit. 5-B, § 2599
Maryland	“the removal of a student from school for a time period between 4 and 10 school days for disciplinary reasons by the principal.” Maryland also has “extended suspension,” which is “the exclusion of a student from a student’s regular program for a time period between 11 and 45 school days . The superintendent or designated representative must limit the duration of the extended suspensions “to the shortest period practicable.”	MD. CODE REGS. 13A.08.01.11(B)(5) MD. CODE REGS. 13A.08.01.11(3)
North Carolina	“The exclusion for more than 10 school days of a student from school attendance for disciplinary purposes from the school to which the student was assigned at the time of the disciplinary action. If the offense leading to the long-term suspension occurs before the final quarter of the school year, the exclusion shall be no longer than the remainder of the school year in which the offense was committed. If the offense leading to the long-term suspension occurs during the final quarter of the school year, the exclusion may include a period up to the remainder of the school year in which the offense was committed and the first semester of the following school year. ”	N.C. GEN. STAT. § 115C-390.1(b)
West Virginia	“Long-term suspension shall mean a suspension that: (a) Exceeds ten school days; (b) Cannot be imposed in such a manner that causes the student to lose academic grades or credit in excess of one semester or trimester during the same school year; and (c) Cannot be imposed beyond the school year in which the alleged misbehavior occurs. ”	W. Va. Code § 392-400-205

Virginia Board of Education & Virginia Department of Education

#4: The Virginia Board of Education (VBOE) and VDOE should issue guidance to all school divisions about proven behavioral interventions and alternatives to suspension and expulsion.

During the 2016 legislative session, Senate Bill (SB) 458 (after the original version was replaced with a substitute) would have directed the VBOE to issue guidelines on alternatives to suspension to local school boards. The bill made it through the Senate and then the House Education Committee with overwhelming bipartisan support. Unfortunately, SB458 was then unexpectedly defeated on the House floor.

Regardless, the VBOE and VDOE should issue guidance to all school divisions about proven behavioral interventions and alternatives to suspension and expulsion. The guidance should include:

- Descriptions of programs;
- Implementation instructions;
- Information about divisions, in Virginia and other states, that have implemented the programs successfully;
- Examples of when specific alternatives may be appropriate for specific offenses;
- Funding opportunities; and
- Contact information for VDOE staff who can provide technical assistance.

#5: The VBOE and VDOE should issue a model student code of conduct.

Virginia Code § 22.1-279.6(A) requires the VBOE to “establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies.” In January 2015, the VBOE published an updated “Student Code of Conduct Policy Guidelines” document. The document primarily summarize existing law and provide a very basic overview of codes of student conduct. It does not provide research about suspension, expulsion, behavioral interventions, or alternatives to punitive discipline, or any examples of best practices from around the country. Good models have emerged from Boston, Massachusetts; Buffalo, New York; Broward County, Florida; and various advocacy organizations, including the Dignity in Schools Campaign.

The VBOE and VDOE should issue a model student code of conduct that is consistent with adolescent development and fundamental fairness. Specifically, the model should:

- Be consistent with Positive Behavioral Interventions and Supports;
- Describe students’ rights as well as responsibilities;
- Describe expectations of staff in managing behavior;
- Tier consequences by grade level and offense;
- Include the revised definition of long-term suspension described in #3 above;
- Include the limitations on suspension and expulsion described in #2 above;
- Describe prohibited conduct with adequate specificity;
- Require that administrators consider mitigating factors before meting out discipline;
- Require the use of available interventions and alternatives that are appropriate and tailored to specific offenses;
- Describe available interventions and alternatives;
- Define uncommon words and jargon; and
- Be comprehensible to students and parents with lower reading levels.

The VDOE should also issue model methods of teaching behavioral expectations to students and parents, such as written assignments, videos, skits, and or role plays. If students are expected to comply with the code of student conduct, then they should be taught, rather than just given, its contents.

#6: The VBOE and VDOE should include school discipline and climate throughout its plan to comply with the federal Every Student Succeeds Act.

The Every Student Succeeds Act (ESSA), signed into law by President Obama in December 2015, reauthorizes the Elementary and Secondary Education Act of 1965 (ESEA) and replaces the No Child Left Behind Act of 2001 (NCLB). The ESSA is the primary federal law governing federal funding to K-12 public schools in the U.S.

All states receive ESSA funding, and therefore, must comply with the law’s requirements, including establishing academic standards, administering annual tests in various subjects, creating a system of accountability and interventions for low-performing schools, and collecting and reporting disaggregated data. To receive funding, states must develop a plan that outlines how it will fulfill these and other responsibilities. Plans will take full effect in the 2017-18 school year.

Over the next year or so, the VBOE and VDOE will develop a plan for Virginia’s adherence to the ESSA. To promote safe and supportive schools, the VBOE and VDOE should commit to the following in the plan:

- Selecting school climate and discipline as an indicator of school quality and student success;
- Incorporating the school climate and discipline indicator into school accreditation standards;
- Aggressively pursuing and equitably allocating ESSA grant funding for programs that promote developmentally appropriate school climates, reduce rates of suspension and referrals to law enforcement, and narrow disparities;
- Providing divisions with support and technical assistance in reducing the overuse of disciplinary practices that remove students from classrooms;

- Taking steps to ensure that disaggregated school discipline and climate data are reported accurately and comprehensively, are suppressed only to the minimum extent required by law, and made publicly available (e.g., in school report cards) on an annual basis;
- Requiring divisions that must conduct a needs assessment to include a thorough analysis of school climate and discipline;
- Requiring corrective action plans for schools that have high rates of and large disparities in suspension, expulsion, school-related arrests, and/or school-based referrals to law enforcement; and
- Applying all elements of the plan to alternative schools, including those with fewer than 100 students.

Local School Boards

Local school boards should voluntarily adopt recommendations #2 and #3, even if the General Assembly does not mandate them.

#7: Local school boards should improve their code of student conduct.

Local school boards should adopt a student code of conduct that is consistent with the model described in #5 above.

#8: Local school boards should adopt a policy requiring stakeholder involvement.

Local school boards should adopt a policy requiring stakeholder involvement in school discipline matters. The stakeholder group should include representation from students, parents, teachers, student support staff, administrators, central office staff, the school board, and community advocates, service providers, and leaders. Responsibilities of the group should include, on an annual basis:

- Reviewing and revising the code of student conduct;
- Reviewing disaggregated school discipline data;
- Collecting feedback from other stakeholders (e.g., surveys, “town hall” meetings, etc.);
- Reviewing the adequacy and quality of alternatives to suspension and expulsion; and
- Recommending to the school board changes to policies and practices.