

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 22.1-277 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 22.1-79.3:1, relating to public elementary and secondary schools; student discipline; bell-to-bell student cell phone and smart device possession and use policies; development and implementation.

[H 1961]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-277 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-79.3:1 as follows:

§ 22.1-79.3:1. Student cell phone and smart device possession and use policies; development and implementation.

A. As used in this section:

"Bell to bell" means after the first bell rings at the start of the school day to begin instructional time until the dismissal bell rings at the end of the school day. "Bell to bell" includes lunch and time in between class periods.

"Smart device" means any personal electronic device that can connect to the Internet and wirelessly collect, process, and transmit data, including smart watches and tablets.

B. Each school board shall develop and each public elementary and secondary school shall implement age-appropriate and developmentally appropriate policies relating to student cell phone and smart device possession and use on school property from bell to bell. Such policies shall:

1. Except as provided in subdivision 4, restrict student cell phone and smart device possession and use on school property from bell to bell;

2. To the extent that student cell phone or smart device possession and use is otherwise permitted on school property before or after bell to bell, regulate such possession and use with the objective of reducing any distractions in or disruptions to the learning environment, including bullying and harassment;

3. Ensure that implementation and enforcement of such policies (i) is the responsibility of the school administration; (ii) minimizes, to the extent possible, any conflict with the instructional responsibilities of teachers or any disturbance to instructional time; and (iii) does not involve any school resource officer, as defined in § 9.1-101, that may be employed in any school in the school division;

4. Permit any student, pursuant to an Individualized Education Plan, Section 504 Plan, individualized health care plan, or Limited English Proficiency plan, to possess and use a cell phone or smart device on school property, including in the classroom, from bell to bell to monitor or address a health concern or as an accommodation or assistive technology support; and

5. Expressly prohibit any student from being suspended or expelled as a consequence of any violation of such policies.

C. No violation of any student cell phone and smart device possession and use policy developed or implemented in accordance with subsection B shall alone constitute sufficient cause for a student's suspension or expulsion from attendance at school pursuant to § 22.1-277. Any violation of any such student cell phone and smart device possession and use policy that involves, coincides with, or results in an instance of disruptive behavior, as that term is defined in § 22.1-276.01, shall be addressed in accordance with the regulations on codes of student conduct adopted by each school board pursuant to subsection B of § 22.1-279.6.

§ 22.1-277. Suspensions and expulsions of students generally.

A. Students may be suspended or expelled from attendance at school for sufficient cause; however, in no cases may sufficient cause for suspensions include only instances of truancy or only a violation of any student cell phone and smart device possession and use policy developed and implemented pursuant to § 22.1-79.3:1.

B. Except as provided in subsection C or § 22.1-277.07 or 22.1-277.08, no student in preschool through grade three shall be suspended for more than three school days or expelled from attendance at school, unless (i) the offense involves physical harm or credible threat of physical harm to others or (ii) the local school board or the division superintendent or his designee finds that aggravating circumstances exist, as defined by the Department.

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

57 D. The authority provided in § 22.1-276.2 for teachers to remove students from their classes in certain
58 instances of disruptive behavior shall not be interpreted to affect the operation of § 22.1-277.04, 22.1-277.05,
59 or 22.1-277.06.

60 E. Notwithstanding the provisions of § 22.1-277.08, no school board shall be required to suspend or expel
61 any student who holds a valid written certification for the use of cannabis oil issued by a practitioner in
62 accordance with § 4.1-1601 for the possession or use of such oil in accordance with the student's
63 individualized health plan and in compliance with a policy adopted by the school board.