

2016

Virginia Juvenile Law Handbook for School Administrators



Co-Sponsored by the

Virginia Department of Criminal Justice Services and the Office of the Attorney General

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I. INTRODUCTION

The *Virginia Juvenile Law Handbook for School Administrators* informs and assists school decision-makers and other school personnel in fostering a safe and secure educational environment. The Virginia Department of Criminal Justice Services' Center for School and Campus Safety (VCSCS) and the Office of the Attorney General collaborated to produce this Handbook.

When is it appropriate to use the Juvenile Law Handbook?

The Handbook can be used before incidents as a source of planning and prevention, during incidents as a resource, or after an incident to organize capacities and define appropriate responses. Please note, the Handbook does not represent legal advice—rather this is a source of information and collection of resources for decision-makers.

How should the Handbook be used?

The Handbook is organized into a series of topics and, within those topics, subdivided into questions that address the most pressing issues around the topic. Additionally, the Handbook provides agency, legal, and other links to supplementary information.

The online format of this Handbook (www.virginiarules.com/juvenile-law-handbook) features links to the *Code of Virginia* (<http://law.lis.virginia.gov/vacode>) and to key publications and resources.



Throughout this document, the **RESOURCES** icon will alert you to helpful resources on the web.

What are offenses?

“Offense” is a term used by the Virginia Department of Education to document violations of the Discipline, Crime, and Violence (DCV) student conduct policies. Some of these offenses are also violations of Virginia criminal code and thus crimes. These violations must be immediately reported to law enforcement. It is important to accurately report crimes to law enforcement and offenses to the Department of Education for several reasons. Resource allocation is often driven by data-based decision making. If a region is experiencing an emerging problem (e.g., increased drugs in schools), decision-makers need accurate information in order to assemble and implement the appropriate response.

What is Virginia Rules?

The *Virginia Rules* curriculum, found at www.virginiarules.com and published by the Virginia Office of the Attorney General, is a law-related educational program which offers a set of lesson plans and information sources that detail key safety and security issues. There are 22 specific curricula covering topics like: gangs, bullying, drugs, criminal law, and civil law. These curricula inform teachers, administrators, and students through exercises, information, handouts, videos, and other tools. Instructors can be teachers, police, volunteers, or others who are willing to study the lesson plan and instructional materials and then deliver the program to students. The juvenile law handbook is a partner document for the *Virginia Rules* curriculum.

II. OFFENSES



The Offenses listed in this section are based on the Virginia Department of Education's Discipline, Crime, and Violence (DCV) codes and definitions and carry the **DCV DEFINITION** icon. To find out more about DCV codes visit:

www.doe.virginia.gov/info_management/data_collection/support/school_safety.



In this section, DCV offenses that are required to be reported to law enforcement carry the **REPORTABLE OFFENSE** icon.

A. Offenses Which Must Be Immediately Reported to Law Enforcement

Code of Virginia §22.1-279.3:1.D. requires principals to immediately report to the local law enforcement agency any act enumerated in clauses (ii) through (vii) of §22.1-279.3:1.A. that constitute a criminal offense:

- i. 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;
- ii. the assault and battery that results in bodily injury, sexual assault, death, shooting, stabbing, cutting, or wounding of any person, or stalking of any person as described in §18.2-60.3, on a school bus, on school property, or at a school-sponsored activity;
- iii. 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;
- iv. any threats against school personnel while on a school bus, on school property or at a school-sponsored activity;
- v. the illegal carrying of a firearm, as defined in §22.1-277.07, onto school property;
- vi. any illegal conduct involving firebombs, explosive materials or devices, or hoax explosive devices, as defined in §18.2-85, or explosive or incendiary devices, as defined in §18.2-433.1, or chemical bombs, as described in §18.2-87.1 on a school bus, on school property, or at a school-sponsored activity;
- vii. any threats or false threats to bomb, as described in §18.2-83, made against school personnel or involving school property or school buses; or
- viii. 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.

All DCV offenses listed in the following chart, and in section A, are required to be reported immediately to law enforcement.



DCV Offenses Immediately Reportable to Law Enforcement

DCV Codes and Offenses	DCV Codes and Offenses
<p>Alcohol (AL1) AC1 – Alcohol use AC2 – Alcohol possession AC3 – Alcohol sale or distribution</p> <p>Assault/Battery BA1 – Assault/battery with firearm or other weapon against staff BA2 – Assault/battery without a weapon against staff BA3 – Assault/battery with firearm or other weapon against student BA4 – Assault/battery without a weapon against student BA5 – Malicious wounding without a weapon</p> <p>Drug Violations DR1 – Possession/Use Schedule I/II Drugs DG1 – Schedule I & II use DG2 – Schedule I & II possession DG5 – Use or possession of synthetic marijuana DG7 – Marijuana use DG8 – Marijuana possession D20 – Anabolic steroid use and possession</p> <p>DR4 – Sale/Distribution Schedule I/II Drugs DG3 – Schedule I & II sale or distribution DG6 – Sale and/or distribution of synthetic marijuana DG9 – Marijuana sale or distribution D19 – Anabolic steroid sale or distribution</p> <p>DR2 – Look-alikes, use or possession DR3 – Theft of prescription medication DR5 – Sale/Distribution Paraphernalia D10 – Other drug use/overdose D11 – Other drug/paraphernalia possession D12 – Other drug sale or distribution</p>	<p>Homicide HO1 – Homicide of a staff member with a firearm HO2 – Homicide of a student with a firearm HO3 – Homicide of a staff member with other weapon HO4 – Homicide of a student with other weapon</p> <p>School Threat (BB1) BO1 – Bomb threat BO2 – Chemical or biological threat BO3 – Terrorist threat BO4 – Setting off a false fire alarm</p> <p>Sexual Offenses SB1 – Sexual battery against staff SB2 – Sexual battery against a student SX3 – Sexual assault of staff (rape) SX4 – Sexual assault of student (rape) SX5 – Attempted sexual assault of staff (rape) SX6 – Attempted sexual assault of student (rape) SX7 – Sexual offense without force/ SX8 – Aggravated sexual battery against student less than 15</p> <p>Stalking ST1 – Stalking</p> <p>Threats/Verbal/Physical TI1 – Threat/intimidation of staff</p> <p>Weapons WP1 – Weapon handgun/pistol WP2 – Weapon shotgun/rifle WP4 – Weapon that expels a projectile WP5 – Knife 3 inches or more WP8 – Other firearms WP9 – Other weapons WP0 – Pneumatic weapon (BB, pellet, or paint ball gun) WP6 – Possession of explosive device WP7 – Use of a bomb or explosive device</p>



Additional guidance on reporting DCV offenses to law enforcement is contained in Virginia Board of Education *Student Conduct Policy Guidelines* at

www.doe.virginia.gov/info_management/data_collection/support/school_safety/discipline_crime_violence/dcv_user_guide.pdf.

For detailed information on Virginia’s DCV reporting view www.virginiarules.com/juvenile-law-handbook/DCV-offense-codes.

1. Alcohol Offenses

What is an alcoholic beverage?

The term alcoholic beverages is defined in *Code of Virginia* §4.1-100 as including “alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being.”

At what age is alcohol use allowed?

Age 21. It is illegal for any person under the age of 21 to purchase, possess, or attempt to purchase or possess any alcoholic beverage. The sale, purchase, or use of powdered or crystal alcohol is illegal in, according to *Code of Virginia* §4.1-309.

What is the penalty for someone under 21 possessing or purchasing alcohol?

The court can find an adult or juvenile defendant guilty of a Class 1 misdemeanor and order a mandatory minimum fine of \$500 or a mandatory 50 hours of community service and suspend the driver’s license of anyone or deny driving privileges for not less than six months or more than one year.

According to the *Code of Virginia* §4.1-305, for a first offense, the court may defer further proceedings and place the adult accused on probation subject to conditions imposed by the court that may include license suspension or restrictions. When proceedings are deferred, the court must require the adult accused to enter a treatment or education program, or both, depending on what the court believes best suits the needs of the accused. If the adult accused abides by the conditions, the court will discharge the person from probation and dismiss charges without an adjudication of guilt.

According to *Code of Virginia* §§ 16.1-278.8 and 16.1-278.9, the court may defer proceedings and order the child to participate in rehabilitation programs; place the child on probation; order treatment for the abuse or dependence of alcohol or drugs; impose a fine not to exceed \$500; suspend the child’s driver’s license or imposing a curfew on the hours the child may operate a vehicle; or require the child to participate in a public service project. If the child complies with the terms of the deferred disposition, the court will dismiss the charges without an adjudication of guilt.

What other penalties may apply for alcohol-related offenses?

According to the *Code of Virginia* §4.1-305, anyone (adult or minor) possessing or consuming alcohol on public school property may face up to \$1,000 in fines and spend up to six months in jail.

Anyone who purchases, possesses, or drinks alcohol, upon conviction, may lose their privilege to drive for not less than six months (and up to one year maximum). They face a mandatory minimum fine of \$500 or must perform a mandatory minimum of 50 hours of community service.

Using a fake ID to buy alcohol means that in addition to the penalties listed above for possession of alcohol, anyone convicted will lose their privilege to drive for not less than 30 days (and up to one year maximum).

In addition, fraudulent use of a driver’s license, ID card, or other identification materials means:


- it is illegal to use another’s ID as one’s own,
- it is illegal to possess or sell an ID for the purpose of establishing false identification, and
- it is illegal to make or alter an ID.

Persons who possess, use, or distribute false forms of ID are charged with a Class 1 misdemeanor.

According to the *Code of Virginia* §18.2-266.1, a motor vehicle operator, age 20 or younger, with a blood or breath alcohol level between .02 and .07 could lose his or her privilege to drive for up to one year and incur fines starting at a mandatory minimum of \$500 or be required to perform 50 hours community service.

What are schools required to do related to student alcohol possession or use?

Schools must handle conduct offenses involving alcohol in accordance with local school board student conduct policies. In addition, all subsequent DCV offenses are required to be immediately reported to law enforcement.

DCV Code	
AL1 – Alcohol	Violating laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, or consumption of intoxicating alcoholic beverages or substances represented as alcohol. Suspicion of being under the influence of alcohol may be included if it results in disciplinary action. Sub-categories AC1, AC2, and AC3.
AC1 – Alcohol-Use	Student use of alcohol.
AC2 – Alcohol-Possession	Student possession of alcohol.
AC3 – Alcohol-Sale/Distribution	Student sale or distribution of alcohol.

 **RESOURCES**

The Virginia Department of Alcoholic Beverage Control has numerous publications and programs designed to restrict access to alcohol by those under age 21. Additional information is available at www.abc.virginia.gov/education.html.

A comprehensive portal of Federal resources for information on underage drinking is www.StopAlcoholAbuse.gov.

2. Assault/Battery Offenses


What is an assault/battery?

An *assault* is a willful attempt or threat to inflict injury upon another person, coupled with an apparent ability to do so, which causes the victim to fear immediate bodily harm. An assault may be committed without actually touching or harming the victim, but an overt action is required. A battery is an actual, intentional physical contact without the victim’s permission.

According to the *Code of Virginia §18.2-57*, criminal penalties for assault and battery are more serious:

- if a person intentionally selects the victim because of race, religious conviction, color or national origin, and/or;
- when the person commits a battery against a person he knows to be a teacher, principal, or assistant principal, or any full-time or part-time school employee engaged in the performance of his or her duties. This is a Class 1 misdemeanor.

The following DCV codes must be reported to law enforcement immediately.

DCV Code	
BA1 – Staff-Assault with a weapon	An actual offensive, forceful and violent and intentional touching or striking of a staff member against his or her will, intentionally causing bodily harm through the use of a firearm or other weapon.
BA2 – Staff-Assault without a weapon	An actual offensive and intentional touching or striking of a staff member against his or her will, intentionally causing bodily harm without the use of a firearm or weapon.
BA3 – Student-Assault with a weapon	An actual offensive forceful and violent and intentional touching or striking of a student against his or her will, intentionally causing bodily harm with the use of a firearm or other weapon.
BA4 – Student-Assault without a weapon	An actual offensive and intentional touching or striking of a student against his or her will, or mutual participation in a fight that intentionally causes bodily harm without the use of a firearm or weapon.
BA5 – Student-Assault/Battery Malicious Wounding without a weapon	Maliciously causing bodily injury to a person (without a weapon) with the intent to maim, disfigure, disable, or kill.

RESOURCES

For more information about Assault/Battery and other crimes against persons, visit the *Virginia Rules* website at www.virginiarules.com/virginia-rules/crimes-against-persons.

3. Drug Offenses

What is a drug?

In regards to the law and DCV offenses, a drug is a controlled substance. According to the *Code of Virginia §54.1-3401*, a controlled substance is listed in Schedule I-VI of the Virginia Drug Control Act;

- Schedule I – high potential for abuse and no accepted medical use: heroin and LSD,
- Schedule II – high potential for abuse and severe dependence, but have a currently accepted medical use: PCP, cocaine, methadone, and methamphetamine,
- Schedule III – less potential for abuse, a potential for moderate dependency and an accepted medical use: anabolic steroids and codeine,
- Schedule IV – less potential for abuse, a limited potential for dependency, and are accepted in medical treatment: Valium, Xanax and other tranquilizers and sedatives,
- Schedule V – low potential for abuse, limited risk for dependency and accepted medical uses: cough medicines with codeine, and
- Schedule VI – unconventional drugs, used and abused recreationally: toluene, inhalants, and nitrous oxide.


What are the major types of drug crimes?

- Possession – when a person possesses any controlled substance without a valid prescription,
- Sale or distribution – when a person sells, provides, gives away, delivers, or distributes a controlled substance, and
- Manufacturing – when a person produces a controlled substance without legal authorization or possesses chemicals used in the manufacture of a controlled substance with intent to manufacture.

Do drug crimes/offenses differ near or in schools?

Yes. *Code of Virginia §18.2-255.2* prohibits the sale or manufacture of drugs on or near certain properties including public and private schools or property within 1,000 feet of a school, on any school bus, or at any school bus stop.

The following codes should be reported to law enforcement immediately.

DCV Code	
DR1 – Schedule I & II, Marijuana and Steroid-Use or Possession	Violation of laws or ordinances prohibiting the manufacture, transportation, possession or consumption of marijuana, schedule I & II drugs, and anabolic Steroid-Use. Sub-categories DG1, DG2, DG5, DG7, DG8, and D20.
DG1 – Schedule I & II-Use	Use of a Schedule I or II controlled substance.
DG2 – Schedule I & II-Possession	Possession of a Schedule I or II controlled substance.
DG5 – Synthetic Marijuana-Use or Possession	Use or Possession of Synthetic Marijuana.
DG7 – Marijuana-Use	Use of Marijuana.

DG8 – Marijuana-Possession	Possession of Marijuana.
D20 – Anabolic Steroid-Use or Possession	Use or Possession of Anabolic Steroids.
DR4 – Schedule I & II, Marijuana, and Steroid-Sale/Distribution	Unlawfully possessing with the intent to distribute, sell, or solicit any Schedule I or II drug, marijuana, or anabolic steroid. Subcategories DG3, DG6, DG9, and D19.
DG3 – Schedule I & II-Sale/Distribution	Sale/Distribution of a Schedule I or II controlled substance.
DG6 – Synthetic Marijuana-Sale/Distribution	Sale/Distribution of Synthetic Marijuana.
DG9 – Marijuana-Sale/Distribution	Sale/Distribution of Marijuana.
D19 – Anabolic Steroid-Sale/Distribution	Sale/Distribution of Anabolic Steroids.
DR2 – Look-Alikes-Use or Possession	Unlawfully using, cultivating, manufacturing, purchasing, possessing, transporting, or importing any substances represented as drug look-alikes.
DR3 – Prescription Drugs-Possession or Theft	Unlawfully possessing or attempting to take possession of drugs prescribed for another.
DR5 – Other Drug-Use, Possession, Sale/Distribution, Paraphernalia,	Unlawfully using or possessing with the intent to distribute, selling or soliciting any controlled drug or narcotic substance not specified in previous drug categories. Having equipment (paraphernalia) for use in consuming illegal drugs in one’s pocket, bag, car, or locker. Subcategories D10, D11, and D12.
D10 – Other Drug-Use/Overdose	Use/overdose of any controlled drug or narcotic substance not specified in previous drug categories.
D11 – Other drug-Possession and Paraphernalia	Possession of any controlled drug or narcotic substance not specified in previous drug categories or any drug paraphernalia.
D12 – Other Drug-Sale/Distribution	Sale/Distribution of any controlled drug or narcotic substance not specified in previous drug categories.

 **RESOURCES**


The Virginia Office of Substance Abuse Prevention offers educational resources for parents and teens regarding substance abuse at www.gosap.virginia.gov.

The National Institute on Drug Abuse explores the science behind abuse while providing teens and adults with important information on drugs at <http://teens.drugabuse.gov/>.

4. Homicide Offenses


What is Homicide?

Homicide is the act of killing another person. Homicide involves the intent to inflict harm—not necessarily the intent to kill. Any homicide must be immediately reported to law enforcement.

DCV Code	
HO1 – Staff-Homicide with a firearm	Any death of a staff member resulting from the use of a firearm (other than accidentally self-inflicted or suicide).
HO2 – Student-Homicide with a firearm	Any death of a student resulting from the use of a firearm (other than accidentally self-inflicted or suicide).
HO3 – Staff-Homicide with a weapon	Any death of a staff member resulting from the use of a weapon (other than accidentally self-inflicted or suicide).
HO4 – Student-Homicide with a weapon	Any death of a student resulting from the use of a weapon (other than accidentally self-inflicted or suicide).

5. School Threat

What constitutes a threat to a school under DCV code?

DCV Code	
BB1 – Bomb Threat-Threat of destruction or harm	Any threat (verbal, written, or electronic) by a person to bomb or use other substances or devices for the purpose of exploding, burning, causing damage to a school building or school property, or harming students or staff. Intentionally making a false report of potential harm from dangerous chemicals or biological agents. Subcategories BO1, BO2, BO3, and BO4.
BO1 – Bomb Threat	Any threat of destruction or harm with a bomb.
BO2 – Chemical/Biological Threat	Any threat of destruction or harm with a chemical or biological agent.
BO3 – Terrorist Threat	Any threat of destruction or harm – terrorist in nature.
BO4 – False Fire Alarm	Intentionally setting off a false fire alarm.

6. Sexual Offenses

What is sexual assault?


Sexual assault is sexual abuse of an individual by the use of force, threat, or intimidation. Rape, sodomy, sexual battery, and attempts to commit these crimes are some of the several types of sexual assault offenses.

What should a school do if a student reports being sexually assaulted?

School personnel must report the matter to law enforcement immediately. Subsequent response depends on the particular circumstances of the assault.

School administrators should also be aware that *Code of Virginia* §22.1-3.3 permits the transfer of a student who is the victim of any crime committed by another student, a school board employee, or a volunteer or contract worker who regularly works in the school. A student may transfer also if the crime was committed upon school property or on any school bus owned or operated by the school division. The transfer must be to another comparable school within the school division if available. Such transfer is to occur only when requested by parent, or student if emancipated, when the student would suffer physical or psychological harm.

All of the following sexual assault offenses must be immediately reported to law enforcement.

DCV Code	
SX3 – Sexual Offense-Forcible against Staff	Sexual penetration (e.g., oral, anal, or vaginal) against a staff member without consent.
SX4 – Sexual Offense-Forcible against Student	Sexual penetration (e.g., oral, anal, or vaginal) against a student without consent. This category also includes statutory rape that is defined as sexual penetration without the consent of a minor.
SX5 – Sexual Offense-Attempted Forcible against Staff	Attempted sexual penetration (e.g., oral, anal, or vaginal) against a staff member without consent.
SX6 – Sexual Offense-Attempted Forcible against Student	Attempted sexual penetration (e.g., oral, anal, or vaginal) against a student without consent.
SX7 – Sexual Offense-Without Force	Lewd behavior, indecent exposure that includes sexual intercourse, sexual contact, or other unlawful behavior or conduct intended to result in sexual gratification without force or threat. Consider age, developmentally appropriate behavior, and disability status before using this category.
SX8 – Sexual Offense-Aggravated Sexual Battery	Sexually abusing a victim less than 13 years of age or accomplishing the act against the will of the victim by force, threat, intimidation, or through the use of the victim’s mental incapacity or physical helplessness, and—the victim is at least 13 but less than 15 years of age, or the accused causes serious bodily or mental injury to the victim, or the accused uses or threatens to use a dangerous weapon. Sexual abuse means an act committed with the intent to sexually molest, arouse, or gratify any person where the accused intentionally touches the victim’s intimate parts or material directly covering such intimate parts; the accused forces the victim to touch the victim’s own or another person’s intimate parts or material directly covering such intimate parts; or the accused forces another person to touch the victim’s intimate parts or material directly covering such intimate parts.

What assistance is available for victims of sexual assault?

Sexual assault crisis centers offer services 24-hours a day. Services offered include: crisis intervention and emotional support, advocacy, and information on legal, counseling, and medical options available.



Call the statewide, toll-free Family Violence and Sexual Assault Hotline at 1-800-838-8238, which is operated by the Virginia Sexual and Domestic Violence Action Alliance. The hotline staff can put you in touch with your local victim/witness program, domestic violence program, and/or court service unit. Someone is there to answer your questions 24-hours a day.

How can a school prevent sexual violence?

The Centers for Disease Control and Prevention (CDC) has several resources for sexual violence prevention. They publish a fact sheet which provides an overview of sexual violence, available at: www.cdc.gov/ViolencePrevention/pdf/SV-DataSheet-a.pdf.

How do transgender issues impact school policy?

The United States Department of Justice and Department of Education has specified that schools must treat students consistent with their gender identity. They state:


The Departments treat a student’s gender identity as the student’s sex for purposes of Title IX and its implementing regulations. This means that a school must not treat a transgender student differently from the way it treats other students of the same gender identity.

This may impact issues such as bathroom, locker room, team membership, and other school policies. The Federal government’s position is detailed in a [2016 Dear Colleague Letter](#).

7. Stalking

What is stalking?

According to *Code of Virginia §18.2-60.3*, stalking is defined as engaging in conduct, on more than one occasion, directed at another person with the intent to place the person in fear of death, criminal sexual assault, or bodily injury to that other person or that person’s family or household member. Stalking is a Class 1 misdemeanor; if convicted two or more times within five years, it is a Class 6 felony. Stalking must be immediately reported to law enforcement.

DCV Code	
ST1 – Stalking	Engaging in conduct directed at another person with the intent to place that person in reasonable fear of death, criminal sexual assault, or bodily injury.


8. Threats/Verbal/Physical

According to *Code of Virginia §18.2-60*, in general, a threat is a communication that threatens to kill or do bodily injury to another person or any member of that person’s family, when that communication places the other person in reasonable fear of death or bodily injury to himself or his family

If the threat is written, the person is guilty of a Class 6 felony, which can result in imprisonment of not less than one year nor more than five years or confinement in a jail for not more than 12 months and/or a possible fine of not more than \$2,500. However, if a written threat is made on school premises, at a school-sponsored event, or on a school bus, it is a Class 6 felony, even if the person who is the target of the threat doesn’t receive the threat.

In addition, anyone who orally makes threats to kill or do bodily injury to any school employee while on school property, at a school-sponsored activity, or while on a school bus is guilty of a Class 1 misdemeanor. A Class 1 misdemeanor can result in confinement in jail for not more than 12 months and/or a fine of not more than \$2,500. Persons making threats can be prosecuted either in the county, city, or town where the threatening communication was made, or where it was received.

A threat against school staff must be immediately reported to law enforcement.

DCV Code	
TI1 – Threat/Intimidation-Against Staff	Unlawfully placing a staff member in fear of bodily harm through physical, verbal, written or electronic threats which immediately creates fear of harm without displaying a weapon or subjecting the person to actual physical attack. Consider age, developmentally appropriate behavior, and disability status before using this category.

9. Weapons Offenses

What is considered a weapon?

The *Code of Virginia §18.2-308.1* lists numerous types of weapons that are prohibited on school property or at school-sponsored events.

- stun guns;
- knife with a blade of three or more inches;
- pistol, revolver, or other weapon designed or intended to propel a missile of any kind by action of an explosion of any combustible material;
- dirk, bowie knife, switchblade knife, ballistic knife, machete, razor, slingshot, spring stick, metal knucks, or blackjack;
- any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain; and
- any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart.

Under what circumstances can a weapon be brought onto school property?

Code of Virginia §18.2-308.1 specifically exempts the following:


- persons who possess such weapon or weapons as a part of the school’s curriculum or activities;
- a person possessing a knife customarily used for food preparation or service and using it for such purpose;
- persons who possess such weapon or weapons as a part of any program sponsored or facilitated by either the school or any organization authorized by the school to conduct its programs either on or off the school premises;
- any law-enforcement officer;
- any person who possesses a knife or blade which he uses customarily in his trade;
- a person who possesses an unloaded firearm that is in a closed container, or a knife having a metal blade, in or upon a motor vehicle, or an unloaded shotgun or rifle in a firearms rack in or upon a motor vehicle; or
- a person who has a valid concealed handgun permit and possesses a concealed handgun while in a motor vehicle in a parking lot, traffic circle, or other means of vehicular ingress or egress to the school.

What types of disciplinary action can be taken with a student who brings a weapon to school?

According to *Code of Virginia §22.1-277.07*, school boards are required to expel students who bring a firearm or other destructive device onto school property or to a school-sponsored event in violation of the Gun-Free Schools Act of 1994. A school administrator, pursuant to school board policy, or a school board, however, may 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. A school board may also ask the division superintendent, or his or her designee, to conduct a preliminary investigation and provide recommendations.

All of the following DCV offenses must be immediately reported to law enforcement.


DCV Code	
WP1 – Weapon 1- Firearm- Handgun/Pistol	Possessing or bringing a handgun or pistol to school or to a school-sponsored event.
WP2 – Weapon 2- Firearm- Shotgun/Rifle	Possessing or bringing a shotgun or rifle to school or to a school-sponsored event.
WP4 – Weapon 3- Expels a Projectile	Possessing or bringing to school or a school-sponsored event any weapon designed to expel a projectile or that may readily be converted or modified manufactured guns to expel a projectile by the action of an explosive device.
WP4 – Weapon 4- Knife	Possessing or bringing to school or a school-sponsored event any sharp-edged instrument that is classified as a knife with a blade of three inches or more.
WP8 – Weapon 5- Other Firearms	Possessing or bringing any other weapon that will, is designed to, expel a projectile by the action of an explosive to school or a school event. This includes firearms not mentioned previously (operable or inoperable, loaded or unloaded) such as, but not limited to, a zip or starter gun.
WP9 – Weapon 6- Other Weapon	Possessing or bringing any weapon, instrument, or object that is designed to or may readily be converted to inflict harm on another person to school or a school event. (i.e. golf club, baseball bat, chains, nunchakus, or billy club)
WP0 – Pneumatic Weapon	Possessing or bringing any pneumatic gun or rifle that is air powered to school or a school event. A pneumatic gun or rifle includes a BB, paint ball, or pellet gun
WP6 – Explosive Device- Possession	Possessing or representing any weapon that explodes or is designed to or may readily be converted to explode.
WP7 – Explosive Device- Use	Using any weapon that is designed to explode with the use of a triggering device or by a chemical reaction that causes an explosion.

B. Offenses Which *May* be Reported to Law Enforcement

The following offenses do not carry the requirement of immediate reporting to law enforcement. Many of them are, however, crimes and school administrators should consider reporting them to law enforcement. The following DCV offenses are not required to be reported to law enforcement, but depending on the severity of the offense, law enforcement contact could prove beneficial and/or necessary.

1. Offenses Against Persons

Crimes against persons involve the direct physical harm or force applied to another person; this includes threatening or making someone fearful of harm.

DCV Code	
BU1 – Bullying	Using repeated negative behaviors intended to frighten or cause harm. These may include, but are not limited to, verbal or written threats or physical harm.
BU2 – Cyberbullying	Cyberbullying is defined as using information and communication technologies, such as cell phone text messages and pictures and internet e-mail, social networking Web sites, defamatory personal Web sites, and defamatory online personal polling Web sites to support deliberate, hostile behavior intended to harm others.

Is there a legal definition of bullying in Virginia?

Yes. As defined in the *Code of Virginia §22.1-276.01*, bullying is “any aggressive and unwanted behavior that is intended to harm, intimidate, or humiliate the victim. Bullying involves a real or perceived power imbalance between the aggressor or aggressors and victim and is repeated over time or causes severe emotional trauma. Bullying includes cyberbullying. Bullying does not include ordinary teasing, horseplay, argument, or peer conflict.” Each school board is to implement policies that fit within the definition.

Is there a legal definition of cyberbullying?

Yes. The *Code of Virginia §18.2-427* defines cyberbullying as “any person who uses obscene, vulgar, profane, lewd, lascivious, or indecent language, or makes any suggestion or proposal of an obscene nature, or threatens any illegal or immoral act with the intent to coerce, intimidate, or harass any person, over any telephone” (includes any electronically transmitted communication producing a visual or electronic message that is received or transmitted by cellular telephone or other wireless telecommunications device). Some examples of cyberbullying are:

- making fun of another user in an Internet chat room;
- harassing a user over an instant messaging session;
- circulating false rumors about someone on social networking websites;
- publishing lewd comments about another person on a personal blog;
- posting unflattering pictures of another user on the Web;
- spamming another user with unwanted e-mail messages;
- sending threatening or provocative e-mail;
- repeatedly calling another person’s cell phone; and/or
- sending unsolicited text messages to another user.


This offense is a Class 1 misdemeanor.

 **RESOURCES**

The Virginia Department of Education and the Virginia Department of Health also offer advice for bullying prevention at www.doe.virginia.gov/support/prevention/bullying and www.vdh.virginia.gov/livewell/programs/yvbp.

The federally supported StopBullyingNow movement has an informative website which addresses both bullying and cyberbullying. Resources include prevention and response guidance, as well as overviews of policies and legislation. The website can be found at: www.stopbullying.gov/index.html

Some of the leading researchers in cyberbullying have a website which serves as a clearinghouse for cyberbullying research. Their page can be found at: <http://cyberbullying.org/>

DVC Code	
EX1 – Extortion	Unlawfully obtaining or attempting to obtain something of value from another by compelling the other person to deliver it by the threat or eventual physical injury or other harm to that person or person’s property.
TI2 – Threat/Intimidation-Against Student	Unlawfully placing a student in fear of bodily harm through physical, verbal, written or electronic threats without displaying a weapon or subjecting the person to actual physical attack. Consider age, developmentally appropriate behavior, and disability status before using this category.
RO1 – Robbery	Taking, or attempting to take, anything of value owned by another person or organization under confrontational circumstances by force or threat of force or violence and/or by putting the victim in fear.
KI1 – Kidnapping	Unlawfully seizing, transporting, and/or detaining a person against his/her will, or a minor without the consent of his/her custodial parent(s) or legal guardian. This category includes hostage-taking.

Is extortion a crime?

Yes. According to *Code of Virginia §18.2-59*, extortion is the act of obtaining money or property from another person by using or threatening to use violence or other criminal means to cause harm to a person, or by threatening harm to that person’s reputation, or that person’s property. Extortion can also involve threats to accuse someone of committing an offense, and thereby obtaining money or property from that person.

It is important to note that **Blackmail** is the common name for extortion where the threat is not physical but relates to exposing some secret or true or alleged fact which would do harm to someone’s circumstances or damage his or her reputation.

Extortion is a Class 5 felony.

What is the difference between a threat against a student and a threat against staff?

Legally, the definition of a threat is the same. According to *Code of Virginia §18.2-60*, in general, a threat is a communication that threatens to kill or do bodily injury to another person or any member of that person’s family, when that communication places the other person in reasonable fear of death or bodily injury to himself or his family. Also, according to DCV code, a threat against staff is required to be immediately reported to law enforcement.


How is robbery different from theft?

Robbery involves the taking of anything of value by force or threat of force. Theft does not involve force or the threat of force or violence. Because of the presence of force or the threat of force, robbery is classified as a crime against persons.

What is kidnapping?

The terms kidnapping and abduction are synonymous in Virginia law. The *Code of Virginia §18.2-47* states: “Any person who, by force, intimidation or deception, and without legal justification or excuse, seizes, takes,

transports, detains or secretes another person with the intent to deprive such other person of his personal liberty or to withhold or conceal him from any person, authority or institution lawfully entitled to his charge, shall be deemed guilty of ‘abduction.’”

DCV Code	
H1Z – Hazing	Committing an act or acts against a student or coercing a student to commit an act that creates risk of harm to a person in order to be initiated into a student organization or class.
HR1 – Harassment- Nonsexual	Repeatedly annoying or attacking a student or a group of students or other personnel which creates an intimidating or hostile educational or work environment.
SX0 – Sexual Harassment	Unwelcome sexual advances, requests for sexual favors, or other physical or verbal conduct or communication of a sexual nature, including gender-based harassment that creates an intimidating, hostile, or offensive educational or work environment.
SX1 – Sexual Offense- Offensive Touching Against Staff	Improper physical contact against a staff that is offensive, undesirable, and/or unwanted as determined by the victim.
SX2 – Sexual Offense- Offensive Touching Against Student	Improper physical contact against a student that is offensive, undesirable, and/or unwanted as determined by the victim.

What are the laws pertaining to hazing?

According to *Code of Virginia* §18.2-56, “hazing” means to endanger the health or safety of a student or students or to inflict bodily injury on a student or students, either recklessly or intentionally, in connection with or as part of initiation or admission into a club, organization, association, fraternity, sorority, or student body. It also applies to activities that act as a condition for continued membership in these organizations. It does not matter whether the student or students so endangered or injured participated voluntarily in the relevant activity.

Hazing is a Class 1 misdemeanor. In addition, someone who receives bodily injury from hazing has the right to sue the person or persons found guilty of hazing in civil court. Also, a perpetrator of hazing may be expelled or subject to other disciplinary action.

Furthermore, school boards are required to include rules against hazing in their codes of student conduct and to develop programs to prevent violence and crime on school property and at school-sponsored events, including hazing.

What is the difference between harassment and sexual harassment?

Harassment means to repeatedly annoy or attack a person or group in such a way as to cause anxiety or fear for safety. Several different types of harassment are against Virginia law:

- *Code of Virginia* §18.2-186.4 – It is unlawful to publish a person’s name or photograph with identifying information, such as social security number, driver’s license number, personal identification number (PIN), credit or debit card number, or address, with the intent to coerce, intimidate, or harass another person. This offense is a Class 1 misdemeanor. If the victim is a law enforcement officer, the offense is a Class 6 felony and there is a mandatory minimum term of confinement of six months.
- *Code of Virginia* §18.2-429 – Prank telephone calls are a form of harassment. If a person calls or pages another person with the intent to annoy that person, both the person making the call and any other person

who allows use of his telephone are guilty of a Class 3 misdemeanor. If the call is made to an emergency response telephone, such as police, fire, or emergency medical service, with intent to annoy, harass, hinder, or delay emergency personnel in performance of their duties, the person making the call and the person whose telephone is used are guilty of a Class 1 misdemeanor.

- *Code of Virginia* §18.2-152.7:1 – It is also illegal to harass someone using a computer or computer network. If a person has the intent to coerce, intimidate, or harass and communicates obscene or indecent language or threatens an illegal or immoral act, the person is guilty of a Class 1 misdemeanor.

What is sexual harassment?

A general definition of sexual harassment is unwelcome sexual advances, requests for sexual favors, or other physical or verbal conduct or communication of a sexual nature, including gender-based harassment that creates an intimidating, hostile, or offensive educational or work environment.

It is important for schools to have in place policies or regulations that define sexual harassment and establish procedures for reporting.



Additional information can be found in the *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties* on the U.S. Department of Education’s website at www2.ed.gov/about/offices/list/ocr/docs/sexhar00.html.

What is sexting?

The National Center for Missing and Exploited Children (2009) defines sexting as “youth writing sexually explicit messages, taking sexually explicit photos of themselves or others in their peer group, and transmitting those photos and/or messages to their peers.” Although this behavior may not be criminal in intent, it can be construed as such under current laws. Importantly, two behaviors that might look like sexting are more likely to be considered criminal activities: (1) when a child sends a sexually explicit photo to an adult and (2) when a child sends sexually explicit photos because they have been coerced or enticed to do so.

The legal consequences of sexting are a serious concern. Producing, storing, or sharing lewd or explicit pictures of minors is against the law in Virginia – felonies that apply to students merely possessing such images on their cell phones, sharing them with other students via cell phone, or producing them using their cell phones (*Code of Virginia* §§ 18.2-374.1). Occurrences of sexting involving minors may represent child pornography—the *Code of Virginia* sections noted previously are child pornography laws.

Other laws may be invoked depending on the circumstances:

- *Code of Virginia* §18.2-152.7:1 – if the sexting involves bullying or harassment;
- *Code of Virginia* §18.2-374.3 – if the sexting involves an adult who has solicited images from a child or who has shared explicit images with a child.



A primary resource for information on sexting is the Virginia Department of Education’s Information Brief – *Sexting: Implications for Schools*. The Brief contains lists of additional related resources. www.doe.virginia.gov/support/technology/info_briefs/sexting.pdf.

What is revenge porn and is it against the law?

According to *Code of Virginia* §18.2-386.2, it is illegal to sell or send images of another person who is entirely naked or undressed enough to expose the genitals, pubic area, buttocks, or female breasts, when the sender/seller is not authorized to distribute such pictures and does so with the intent to coerce, harass, or intimidate this person. This is a Class 1 misdemeanor


What are laws related to sex offenders and schools?

Code of Virginia §18.2-370.5 prohibits entry of sex offenders onto public or private school property or day care centers during school hours and during school-related and school-sponsored activities. Exceptions include entry solely for the purposes of casting his vote, he is a student enrolled at the school, or he has obtained a court order allowing him to enter and has obtained permission of the school board or owner of the private school or day care. Persons prohibited may petition the circuit court for permission to enter such property.

2. Offenses Against Property

Crimes against property are offenses involving property and include both crimes in which property is destroyed and crimes in which property is stolen or taken against the owner’s will. A broad range of offenses are classified as crimes against property, including those having to do with taking property, with destroying property, and with wrongfully using or possessing property.

The following DCV offenses are not required to be reported to law enforcement, but depending on the severity of the offense, law enforcement contact could prove beneficial and/or necessary.

DCV Code	
AR1 – Arson	Unlawfully and intentionally damaging or attempting to damage any school or personal property by fire or incendiary device. Firecrackers, fireworks, and trashcan fires would be included in this category if they were contributing factors to a damaging fire. Subcategories include AS1, AS2, and AS3.
AS1 – Arson-Actual	Unlawfully and intentionally damaging any school or personal property by fire or incendiary device.
AS2 – Arson-Attempted	An unlawful and intentional attempt to damage any school or personal property by fire or incendiary device.
AS3 – Arson- Firecrackers, bombs that contribute to fire damage	Unlawfully and intentionally damaging or attempting to damage any school or personal property by firecracker, cherry bomb, or stink-bomb.
VA1 – Vandalism	Willfully and/or maliciously destroying, damaging or defacing public or private property without the consent of the owner or the person having custody or control of it. Subcategories include VN1, VN2, and VN3.
VN1 – Vandalism- School Property	Willfully and/or maliciously destroying, damaging or defacing school property.
VN1 – Vandalism- Private Property	Willfully and/or maliciously destroying, damaging or defacing private property.
VN1 – Vandalism- Graffiti	Willfully and/or maliciously destroying, damaging or defacing public or private property with graffiti.

Is arson a criminal offense?

Yes. According to *Code of Virginia §18.2-79*, burning or destroying a meeting house or school constitutes a Class 4 felony if no person occupies the building and a Class 3 felony if at least one person occupies the building.

Is vandalism a criminal offense?

Yes. *Code of Virginia §18.2-138* specifically prohibits damaging public buildings and materials in libraries and schools. This constitutes a Class 6 felony if damage to the property is \$1,000 or more or a Class 1 misdemeanor if the damage is less than \$1,000.

In addition, any person who willfully and unlawfully damages or defaces any book, newspaper, magazine, pamphlet, map, picture, manuscript, or other property located in any library, reading room, museum, or other educational institution shall be guilty of a Class 6 felony if damage to the property is \$1,000 or more or a Class 1 misdemeanor if the damage is less than \$1,000.

Graffiti or “tagging” falls within this definition.


Can students who vandalize a school be made to repair the damage or pay for repairs?

Yes. *Code of Virginia §8.01-43* specifically addresses minors who are caught damaging public property and action that can be taken against the parents:

“The Commonwealth, acting through the officers having charge of the public property involved, or the governing body of a county, city, town, or other political subdivision, or a school board may institute an action and recover from the parents or either of them of any minor living with such parents or either of them for damages suffered by reason of the willful or malicious destruction of, or damage to, public property by such minor. No more than \$2,500 may be recovered from such parents or either of them as a result of any incident or occurrence on which such action is based.”

Additionally, *Code of Virginia §22.1-280.4* authorizes school boards to take action against a student or his parents:

“A school board may take action against a pupil or the pupil’s parent for any actual loss, breakage, or destruction of or failure to return property owned by or under the control of the school board, caused or committed by such pupil in pursuit of his studies. Such action may include seeking reimbursement from a pupil or the pupil’s parent for any such loss, breakage, or destruction of or failure to return school property.”

DCV Code	
TR1 – Trespassing	Entering or remaining on a public school campus or school board facility without authorization or invitation and with no lawful purpose for entry, including students under suspension or expulsion and unauthorized persons who enter or remain on a campus or school board facility after being directed to leave.
BR1 – Breaking and Entering- Burglary	Unlawfully entering or attempting to enter a building or other structure with the intent to commit a crime. Subcategories include BK1 and BK2.
BK1 – Breaking and Entering- Actual Burglary	Unlawfully entering a building or other structure and committing burglary.

BK2 – Breaking and Entering- Attempted Burglary	Unlawfully entering or attempting to enter a building or other structure with the intent to commit burglary.
TH1 – Theft- No Force	Unlawfully taking, carrying, leading, or riding away property from the possession of another person. May include pocket picking, purse snatching, theft from building, theft of electronic data, theft from motor vehicle, or from coin-operated machines. Subcategories include TF1, TF2, TF3, and TF4.
TF1 – Theft- School Property	Unlawfully taking, carrying, leading, or riding away school property.
TF2 – Theft- Staff Property	Unlawfully taking, carrying, leading, or riding away property from the possession of staff.
TF3 – Theft- Student Property	Unlawfully taking, carrying, leading, or riding away property from the possession of a student.
TF4 – Theft- Possession of Stolen Property	Possessing property that was unlawfully taken, carried, led, or rode away from the possession of another person.
TH2 – Theft- Motor Vehicle	Unlawfully taking, carrying, leading, or riding away a motor vehicle or the attempted theft of a motor vehicle. This category includes theft of a car, truck, motorcycle, dune buggy, snowmobile, RV, or anything that is self-propelled.

Is it a crime to trespass on school property?

Yes. *Code of Virginia* §18.2-128 prohibits trespass upon church or school property. Under this Code section:

- Any person who, without the consent of some person authorized to give such consent, goes or enters upon, in the nighttime, the premises or property of any church or upon any school property for any purpose other than to attend a meeting or service held or conducted in such church or school property, trespasses. This is a Class 3 Misdemeanor.
- It shall be unlawful for any person, whether or not a church member or student, to enter upon or remain upon any church or school property in violation of:
 - any direction to vacate the property by a person authorized to give such direction, or
 - any posted notice which contains such information, posted at a place where it reasonably may be seen. Each time such person enters upon or remains on the posted premises or after such direction that person refuses to vacate such property; it shall constitute a separate offense.

Furthermore, a violation of this latter provision shall be punishable as a Class 1 Misdemeanor, except that any person, other than a parent, who violates this subsection on school property with the intent to abduct a student, shall be guilty of a Class 6 felony.

What is burglary?

Code of Virginia §18.2-89 defines **burglary** as breaking and entering the dwelling of another with intent to commit a felony or any larceny.

What is theft?

Theft, or larceny, is defined generally as the unlawful taking or carrying away of someone else’s personal property with the intent to deprive the owner of it permanently.

What is the difference between petty larceny and grand larceny?

The *Code of Virginia §18.2-96* states that petit larceny is defined as larceny from a person of money or other thing valued at less than \$5 or larceny not from the person of goods valued at less than \$200.

Grand larceny, *Code of Virginia §18.2-95*, is defined as larceny from a person of money or other things valued at \$5 or more, larceny not from the person of goods valued at \$200 or more, or larceny not from the person of any firearm.

What about buying or receiving stolen goods?

Code of Virginia §18.2-108 prohibits buying or receiving stolen goods. Anyone who buys or receives such goods, knowing them to be stolen, is guilty of larceny even if the person who stole the goods is not convicted.

3. Conduct and Other Offenses

A broad range of offenses are classified as conduct or other offenses. Some of the DCV offenses are criminal, but are not required to be reported to law enforcement. However, depending on the severity of the offense, law enforcement contact could prove beneficial and/or necessary.

DCV Code	
AIT – Attendance	Violation of state, school division, or school policy relating to attendance.

What does Virginia law say about school attendance?

In brief, Virginia law:

- requires parents to send children to school;
- requires students to attend school;
- requires schools to take specific action when children are not enrolled or students fail to attend;
- authorizes law enforcement officers to pick up students who are skipping school; and
- authorizes juvenile courts to take action against parents and/or children for failure to attend.

Basic provisions governing school attendance are listed in the table below.

§22.1-254	Compulsory Attendance Laws
§22.1-258	Appointment of Attendance Officers
§22.1-259	Teachers to Keep Daily Attendance Records
§22.1-260	Reports of Children Enrolled and Non-enrolled
§22.1-261	Duties of Attendance Officers
§22.1-262	Complaints to Court When Parents Fail to Comply
§22.1-263	Violations Constitute Misdemeanors
§22.1-265	Inducing Children to Absent Themselves
§22.1-266	Law Enforcement Officers and Truant Children
§22.1-267	Proceedings Against Habitually Absent Children
§22.1-269	Duties of the Board of Education
§22.1-279.3	Parental Responsibility and Involvement Requirements
§16.1-241.2	Proceedings Against Certain Parents

 RESOURCES

More detailed information about the legal framework for truancy prevention and intervention and specific procedural requirements are contained in the Virginia Department of Education's *Improving School Attendance: A Resource Guide for Virginia Schools*.

www.doe.virginia.gov/support/prevention/attendance-truancy/improving_school_attendance.pdf

What does Virginia law say about unexcused absences and driving?

Code of Virginia §§ 46.2-323 and 46.2-334.001 provides for the suspension of the driver's license of anyone under 18 years of age who has 10 or more unexcused absences from public school on consecutive school days.

What does Virginia law say about attendance and religious holidays?

Code of Virginia §22.1-254 requires local school boards to develop policies ensuring that any student's absence because of the observance of a religious holiday be recorded as excused on the student's attendance record and that a student not be deprived of any award or of eligibility or opportunity to compete for any award or of the right to take an alternate test or examination, for any which he missed because of such absence.

What does Virginia law say about notifying social services of non-attendance?

Code of Virginia §63.2-606 requires schools to report non-attendance of children receiving Temporary Assistance for Needy Families (TANF) to local departments of social services. Families receiving TANF are required to comply with compulsory school attendance laws.

How is truancy defined in Virginia law?

Truancy is addressed in *Code of Virginia* §16.1-228 as part of the definition of a Child in Need of Supervision (CHINSup) which contains several important elements.

A Child in Need of Supervision (CHINSup) means a child who is subject to the compulsory attendance law yet remains habitually absent, **and**:

- the child has been offered adequate opportunity to benefit from all education services that are required to be provided by law;
- the school or other appropriate agency has made a reasonable effort to effect the student's attendance without success; and
- the school system has provided the court with documentation that it has complied with all the provisions.

What disciplinary action can be taken for truancy?

Code of Virginia §22.1-277 restricts the use of suspension for truancy: "Pupils 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."

 RESOURCES

The Virginia Department of Education has provided a module series called "Attendance and Truancy among Virginia Students." This resource provides guidance and information on truancy prevention.


www.doe.virginia.gov/support/prevention/attendance-truancy/index.shtml

Can any action be taken against adults who allow truants to “hang out” during school hours?

Code of Virginia §22.1-265 explains that inducing or attempting to induce any child to be absent unlawfully from school or knowingly employing or harboring any child absent unlawfully is a misdemeanor.

 **RESOURCES**

Attendance requirements may be included as part of the student conduct policy or may be addressed elsewhere in policy at the discretion of the school board. For more information see Virginia Board of Education *Student Code of Conduct Policy Guidelines* at www.doe.virginia.gov/boe/guidance/safety/student_conduct.pdf.

DCV Code	
Disruptive Behavior	A student behaves in a manner that disrupts the orderly functioning of a school or a school event. Codes in this category include behaviors that range from minor insubordination to substantial disruption. They are D1C-Disrespect, D2C-Defiance, D3C-Disruptive Demonstration, D4C-Possession of Obscene/Disruptive Literature, D5C-Classroom or Campus Disruption, D6C-Obscene/Inappropriate Language/Gestures, D8C-Minor Insubordination
FA2 – Fighting-No/Minor Injury	Mutual participation in a fight involving physical violence, where there are no or minor injuries. These may include, but not be limited to, the following: scrape on body (e.g., knee, elbow, hand) or minor bruising.
F1T – Fighting-Altercation/Confrontation	Confrontation, tussle, or verbal/physical aggression that does not result in injury.
RT1 – Inciting a Riot	Unlawful use of force or violence that seriously jeopardizes the public safety, peace, or order. Three or more people acting together.


What if a student activates a fire alarm when there is no fire?

Anyone who without just cause calls for an ambulance or fire-fighting apparatus or maliciously activates a fire alarm in a public building violates *Code of Virginia §18.2-212* and shall be deemed guilty of a Class 1 misdemeanor. The school can determine which of the Disruptive Behavior codes is most appropriate.

What is a riot?

A riot is any unlawful use of force or violence, by three or more persons acting together, which seriously jeopardizes the public safety, peace, or order. According to *Code of Virginia §18.2-405*, persons convicted of participating in any riot shall be guilty of a Class 1 misdemeanor.

Remaining at a riot or unlawful assembly after being warned to disperse is also a violation of *Code of Virginia §18.2-407*, which is punishable as a Class 3 misdemeanor.

DCV Code	
GA1 – Gang Activity	Street gang means any ongoing organization, association, or group of three or more persons, whether formal or informal, that has as one of its primary objectives or activities to commit one or more criminal or non-criminal gang activities. This includes articles of clothing that symbolize association, rituals, or activities identified by groups of students.

What is a gang?

Code of Virginia §18.2-46.1 defines a criminal street gang as any group:

- of three or more persons,
- whether formal or informal,
- which has as its primary objectives or activities the commission of one or more criminal acts,
- that has an identifiable name or identifying sign or symbol, and
- whose members have engaged in two or more specified criminal acts, at least one of which is an act of violence.

It is important to note that it is not illegal to be a gang member.

Which other laws address gangs?

- Code of Virginia §18.2-46.2 makes it a Class 4 or 5 felony for gang members to commit certain criminal acts on behalf of a gang. Examples include robbery, assault, arson, gang recruitment, trespassing, and damage to property.
- Code of Virginia §18.2-46.3 prohibits recruitment of juveniles for a criminal street gang. Specifically:
 - ♦ Any person aged 18 years or older, who solicits, invites, recruits, encourages, or otherwise causes or attempts to cause a juvenile to actively participate in or become a member of a criminal street gang, shall be guilty of a Class 6 felony.
 - ♦ Any person who, regardless of age, solicits, invites, recruits, encourages, or otherwise causes or attempts to cause another to actively participate in or become a member of a criminal street gang, shall be guilty of a Class 1 misdemeanor.
 - ♦ Any person who uses threats or force against a person or that person's family to recruit that person into a gang, or force him or her to remain in the gang or to submit to a demand by a gang to commit a felony shall be guilty of a Class 6 felony.
- Code of Virginia §18.2-55.1 prohibits hazing of youth gang members. Anyone who causes bodily injury by hazing any member or person seeking to become a member of a youth gang or street gang shall be guilty of a Class 1 misdemeanor. It does not matter whether or not the victim of the hazing participated voluntarily in the prohibited activity.
- Code of Virginia §16.1-260(G) requires that the school division superintendent be notified when a juvenile or adult student commits a violation of any gang statute, whether on or off school property.

What kinds of crimes do gang members commit?

Most street gang members are involved in activities that are crimes in the community. Some examples are:

- using drugs and dealing drugs;
- theft and dealing in stolen property;
- assault and battery and serious injury to other people;
- threats and intimidation of others; and
- destroying public and private property.

What authority/responsibilities do schools have related to gangs?


- Code of Virginia §18.2-46.3:3 establishes Gang-Free Zones in which there are enhanced penalties for gang participation and recruitment. The zones include school property, public property within 1,000 feet of school property, and school buses as well as on the property of any publicly owned or operated community center or recreation center.
- Code of Virginia §§ 22.1-3.2 requires a parent or guardian to provide a public school, upon registration of a student, information concerning criminal convictions or delinquency adjudications for any offense listed

in subsection G of *Code of Virginia* §16.1-260. These include homicide, felonious assault and bodily wounding, criminal sexual assault, manufacture, sale, or distribution of Schedule I or II controlled substances or marijuana, arson, burglary and robbery, prohibited street gang activity, and recruitment for street gang activity. When the school registration results from foster care placement, the information is to be furnished by the local social services agency or licensed child-placing agency that made the foster care placement.

 **RESOURCES**

The most comprehensive federal resource, the National Gang Center at www.nationalgangcenter.gov, features the latest research about gangs; descriptions of evidence-based, anti-gang programs, and links to tools, databases, and other resources to assist in developing and implementing effective community-based gang prevention, intervention, and suppression strategies. An online form allows communities to request training and technical assistance as they plan and implement anti-gang strategies. Users can register for a variety of anti-gang training courses and subscribe to GANGINFO, an electronic mailing list for professionals working with gangs.

The U.S. Department of Justice Community Oriented Policing Services also has a *Gangs Toolkit* available online at www.cops.usdoj.gov/default.asp?item=1309. Numerous publications can be downloaded including a Gang Reference Card for Parents, in multiple languages, and other resources on graffiti and street gangs.

DCV Code	 DCV DEFINITION
C1M – Electronic Devices	Using electronic devices that are deemed inappropriate in an educational setting. Includes beepers, cellular telephones, and electronic devices.
T1C – Technology-Use Violations	Unauthorized violations of technology use according to the Acceptable Usage Policy. Includes damaging computer hardware, software, or files, and violations of internet and usage policies.

What are Violations of Cell Phone Policy?

Code of Virginia §22.1-279.6 authorizes local schools to regulate the use or possession of beepers or other portable communications devices and laser pointers by students on school property or attending school functions or activities and to establish related disciplinary procedures. In general, schools should have a policy in place to address appropriate use of cell phones that addresses permitted and prohibited uses; the policy can be included in the school division’s acceptable use policy (AUP) or student code of conduct. The policy needs to delineate clearly what is not acceptable and the consequences of violations of policy.

Training all staff in how to enforce the policy is important. They need to know what constitutes a violation, how to investigate incidents, when confiscating a cell phone is justified, the extent to which cell phones can be searched, and protocol for reporting incidents.

What computer/Internet use policies are schools required to have in place?

Code of Virginia §22.1-70.2 requires schools and divisions to establish guidelines for appropriate technology use. These guidelines generally are called acceptable use policies (AUP). By definition, an AUP is a written agreement signed by students, their parents/caregivers, and their teachers. It outlines the terms and conditions for using technology-based devices maintained by schools and personal technology-based devices used during school hours on school property.

 RESOURCES

The Superintendent of Public Instruction is required to issue guidelines to school divisions regarding instructional programs related to Internet safety. *Guidelines and Resources for Internet Safety in Schools* at www.doe.virginia.gov/support/safety_crisis_management/internet_safety/guidelines_resources.pdf provides more detailed guidance on what school divisions must address, integrating Internet safety into curricula, and numerous Web-based Internet safety resources.

What Virginia laws relate to computer-/Internet-related crimes?

There are numerous laws pertaining to computer-/Internet-related crimes. Some of the main computer-/Internet-related laws and key elements of the crimes are as follows:

Crime	Code of Virginia	Key Elements of Crime
Computer fraud	§18.2-152.3	Using computer or computer network without authority to 1) obtain property or services by false pretenses; 2) embezzle or commit larceny; or 3) convert the property of another.
Computer invasion of privacy	§18.2-152.5	Using computer or computer network to intentionally examine without authority any employment, salary, credit or any other financial or identifying information.
Computer trespass (hacking/cracking)	§18.2-152.4	Removing, altering, erasing, disabling, or unauthorized copying of any computer data, programs, or software; causing a computer to malfunction; creating or altering a financial instrument; using a computer or network to cause physical injury to the property of another; installing software to record keystrokes made on another computer or take control of another computer. This law does not prohibit the monitoring of computer usage of, the otherwise lawful copying of data of, or the denial of computer or Internet access to a minor by a parent or legal guardian of the minor.
Harassment by computer (cyberbullying)	§18.2-152.7:1	Using computer or computer network, with the intent to coerce, intimidate, or harass, to communicate obscene, vulgar, profane, lewd, lascivious, or indecent language, or make any suggestion or proposal of an obscene nature, or threaten any illegal or immoral act.
Identity theft	§18.2-186.3	Without authorization or permission, to obtain, record or access identifying information that would assist in obtaining identification documents or obtaining benefits; to obtain money, credit, loans, goods or services by using the identifying information of another person; to obtain documents in another's name.
Personal trespass by computer	§18.2-152.7	Using a computer or computer network to cause physical injury to an individual. Penalty is increased if committed maliciously.


<p>Possession, reproduction, distribution, and facilitation of child pornography</p>	<p><u>§18.2-374.1:1</u></p>	<p>Knowingly possessing child pornography; reproducing child pornography by any means, including by computer, selling, giving away, distributing, electronically transmitting, displaying with lascivious intent, purchasing, or possessing with intent to sell, giving away, distributing, transmitting, or displaying child pornography with lascivious intent; intentionally operating an Internet website for the purpose of facilitating the payment for access to child pornography. Venue for a prosecution under this section may lie in the jurisdiction where the unlawful act occurs or where any child pornography is produced, reproduced, found, stored, received, or possessed in violation of this section. These provisions do not apply to possession for a bona fide medical, scientific, governmental, or judicial purpose.</p>
<p>Production, publication, sale, financing, etc., of child pornography</p>	<p><u>§18.2-374.1</u></p>	<p>Production of child pornography includes enticing or soliciting a person less than 18 years of age to perform or be a subject of child pornography; producing or taking part in filming or photographing child pornography; or knowingly financing or attempting or preparing to finance child pornography.</p>
<p>Property capable of embezzlement (by computer)</p>	<p><u>§18.2-152.8</u></p>	<p>Property subject to embezzlement, larceny, or receiving stolen goods shall include: 1. computers and computer networks; 2. financial instruments, computer data, computer programs, computer software and all other personal property; and 3. computer services.</p>
<p>Theft of computer services (WiFi surfing)</p>	<p><u>§18.2-152.6</u></p>	<p>Willfully obtaining computer services without authority.</p>
<p>Transmission of unsolicited bulk electronic mail (spam)</p>	<p><u>§18.2-152.3:1</u></p>	<p>Using a computer or computer network to transmit unsolicited bulk electronic mail with the intent to falsify or forge electronic mail transmission information.</p>
<p>Use of communications systems to facilitate certain offenses involving children (solicitation)</p>	<p><u>§18.2-374.3</u></p>	<p>Use of a communications system by a person 18 years of age or older to solicit a child to knowingly and intentionally: 1. expose his sexual or genital parts or propose that any such child expose his sexual or genital parts; 2. propose that any such child feel or fondle the sexual or genital parts of such person or propose that such person feel or fondle the sexual or genital parts of any such child; 3. propose to such child the performance of an act of sexual intercourse; or 4. entice, allure, persuade, or invite any such child to enter any vehicle, room, house, or other place, for any purposes set forth above.</p>
<p>Using a computer to gather identifying information (phishing/pharming)</p>	<p><u>§18.2-152.5:1</u></p>	<p>Using a computer to obtain, access, or record, through the use of material artifice, trickery or deception, any identifying information. This law does not apply to law-enforcement officers performing official duties.</p>

 **RESOURCES**

The Virginia Department of Education’s *Guidelines and Resources for Internet Safety in Schools* at www.doe.virginia.gov/support/safety_crisis_management/internet_safety/guidelines_resources.pdf contains numerous Web-based Internet safety resources.

A key federal resource is OnGuardOnline.gov which provides practical tips from the federal government and the technology community related to Internet fraud, computer security, and protecting user privacy.

The Net Cetera: Chatting with Kids about Being Online at www.onguardonline.gov/articles/pdf-0001-netcetera.pdf covers a wide range of topics, including social networking, cyberbullying, sexting, using mobile phones safely, and protecting the family computer.


DCV Code	
TB1 – Tobacco-Use, Possession, Sale	Possessing, using, distributing, or selling tobacco products, including smokeless tobacco on school grounds, at school sponsored events, and/or on school transportation. Includes subcategories TC1, TC2, and TC3.
T4B – Tobacco-Paraphernalia	Bringing tobacco paraphernalia to school or to a school event.

What are the Virginia laws related to tobacco?

Code of Virginia §18.2-371.2 prohibits the purchase or possession of tobacco products by minors or sale of tobacco products to minors. Further, no person is permitted to sell or distribute to or purchase for or knowingly permit the purchase by any person less than 18 years of age.

What laws govern e-cigarettes?

Nicotine vapor products and alternative nicotine products (sometimes known as e-cigarettes, the use of which may be known as vaping) are included in the definition of tobacco products which shall not be sold to or purchased or possessed by a minor. *Code of Virginia* §22.1-79.5 requires that all schools include in the code of student conduct a prohibition against possessing electronic cigarettes on a school bus, on school property, or at a school-sponsored activity.

DCV Code	
G1B – Gambling	Making, placing, or receiving any bet or wager of money or other thing of value dependent upon the result of the game, contest, or any other event with an uncertain outcome.
W1P – Weapon-Possession of Ammunition	Possession of any type of ammunition. Ammunition means ammunition or cartridges, cases, primers, bullets, or propellant powder designed for use in any firearm.
W3P – Weapon-Look Alike	Any device that looks like a real gun or is a toy gun (i.e., water pistols). Category also includes look-alike weapons.
W2P – Weapon-Chemical Substance	Possessing or bringing to school or a school-sponsored event any substance used as a weapon. The substance would include mace, tear gas, or pepper spray.

WT1 – Weapon-Possession of Taser Gun	Possessing or bringing any mechanism that is designed to emit an electronic, magnetic or another charge or shock through the use of a projectile and used for the purpose of temporarily incapacitating a person.
WS1 – Weapon-Possession of Stun Gun	Possessing or bringing any mechanism that is designed to emit an electronic, magnetic or other charge that exceeds the equivalency of five milliamp 60 hertz shock and used for the purpose of temporarily incapacitating a person.

What is the legal definition of gambling?

Code of Virginia §18.2-325 defines illegal gambling as the making, placing or receipt of any bet or wager of money or other thing of value dependent upon the result of the game, contest, or any other event with an uncertain outcome.

Is it illegal to possess ammunition on school property?

No. It is not a crime to possess ammunition on school property; however it does violate the code of conduct and is a DCV offense.

Is it illegal to possess mace, pepper spray, or tear gas on school property?

No. It is not a crime to possess any item described above; however it does violate the code of conduct and is a DCV offense.

Are stun guns or tasers allowed on school property?

No. *Code of Virginia §18.2-308.1* prohibits bringing a stun gun or taser on school property. This is a Class 1 misdemeanor. While this offense is criminal, it is not required to be reported to law enforcement.

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III. JUVENILE JUSTICE IN VIRGINIA

What is juvenile law?

Juvenile law is criminal law pertaining to persons not considered old enough to be held responsible for criminal acts they commit. Virginia, like most other states, has set the age for criminal accountability at 18; anyone less than 18 years of age is defined as a “juvenile.” Most laws governing juveniles are contained in Code of Virginia, Title 16.1.

What is the restorative nature of the juvenile justice system?

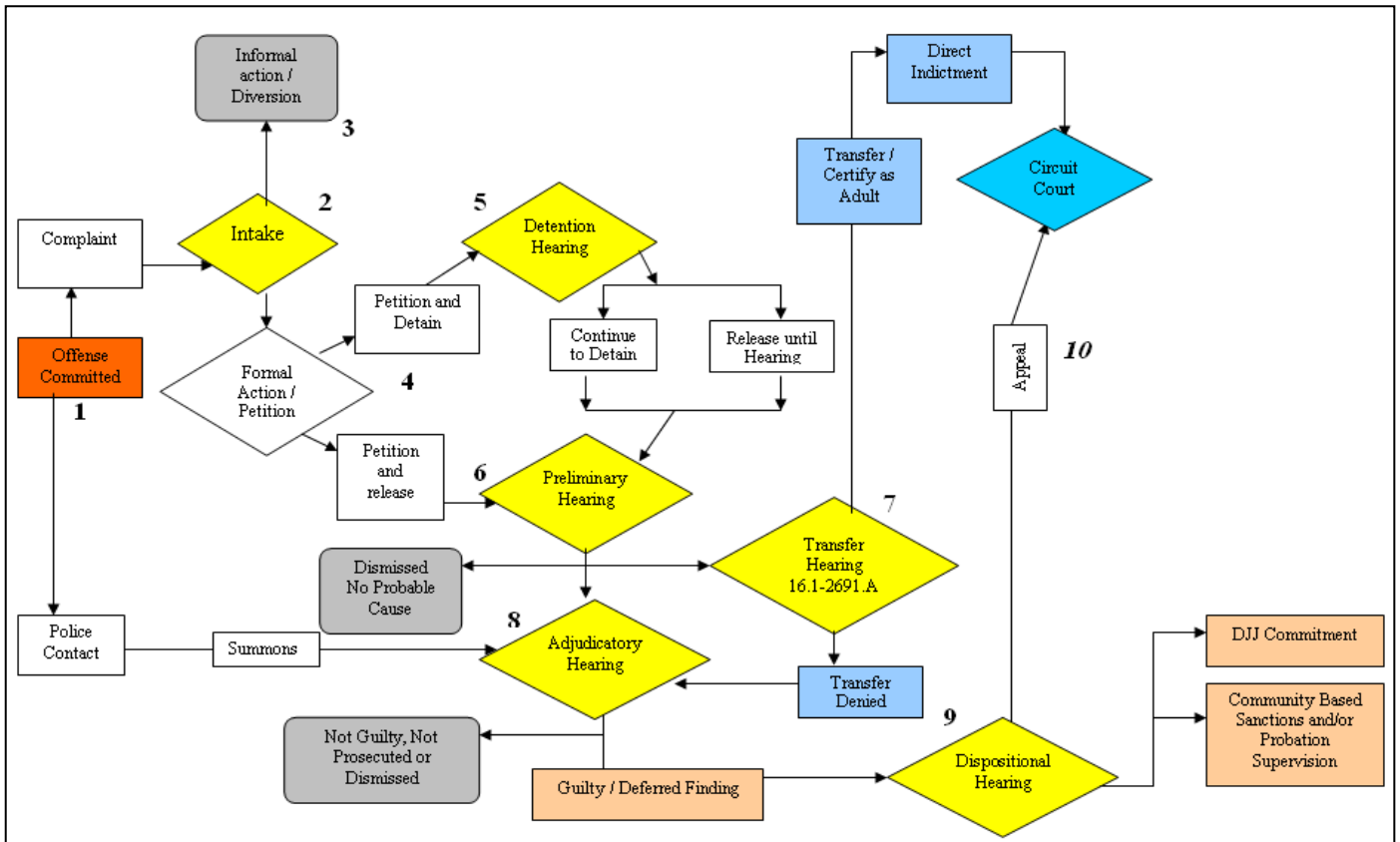
The juvenile justice system has a different purpose and treats juveniles differently than adults. The adult criminal justice system aims to incapacitate criminals, deter future offenders, and punish those who are convicted. In the juvenile system, rehabilitative and restorative sanctions are used much more frequently with the hope that a delinquent can be deterred from future criminality. Those juveniles who are charged with very serious crimes (usually violent felonies) may be *transferred* to adult court. This is rare and occurs in less than 1% of juvenile cases.

How is the juvenile justice system organized in Virginia?

The Juvenile Justice system in Virginia includes not only Juvenile and Domestic Relations Court (J&DR) in each District, but law enforcement agencies, detention centers, juvenile offenders programs, and juvenile correctional facilities.

How does the juvenile justice process operate in Virginia?

The flowchart below shows the juvenile justice process in Virginia:



Steps in the juvenile justice process in Virginia:

1. The juvenile enters the system when an offense is reported. For some offenses, such as minor traffic violations, law enforcement officers may issue a summons to court rather than initiating the intake process.
2. At juvenile court intake, the intake officer is authorized to (a) take informal action, or (b) take formal action and file a petition.

What is a juvenile court intake officer?

A juvenile court intake officer receives and reviews complaints regarding a child's delinquent behavior to the juvenile court, and determines whether there are enough facts to file a petition. These officers have the authority to handle these cases informally or detain the juvenile when necessary bringing the petition before a judge.

3. Informal actions may include referral to a crisis shelter, counseling, or other action to divert the case from the juvenile justice system. Diversion is sometimes used for first offenses and may involve the juvenile attending an educational program offered through the court.
4. If the intake officer decides to take formal action and file a petition, the intake officer will also determine whether the juvenile should be detained or released to his or her parents or guardians. The decision is based on the juvenile's risk to self or community and risk of flight.

What is detention?

Detention involves physically restraining or confining of an individual in a locked facility. In Virginia, a judge, intake officer, or magistrate may detain a juvenile for reasons prescribed by law. Detention is most often used to hold a juvenile pending a hearing. Juveniles are typically held in detention centers in Virginia.

5. If the decision is made to detain the juvenile, a detention hearing is held within 72 hours in the J&DR District Court to determine the need for further detention.

When can someone be detained?

A judge, intake officer, or magistrate must find probable cause that the juvenile has either committed a serious crime or violated conditions of his or her probation or parole, and there is clear and convincing evidence that releasing the juvenile would be a clear and substantial threat to the person or property of others or to the juvenile's life or health, the juvenile has threatened to runaway, or is a fugitive from another state.

What is a detention center?

Detention centers, sometimes called detention homes, temporarily hold delinquents in secure custody pending court hearings. While at a detention center, detainees participate in structured programs, including school and recreational activities. Detained juveniles also receive medical and mental health screenings and services, may participate in religious activities, and may have supervised visits with parents or guardians. Detention is used to ensure juveniles are present for court without harming themselves or others while awaiting a court date. Under certain circumstances, a judge may sentence a juvenile to a detention center for *up to 180* days as a sanction after the juvenile is found guilty of an offense.

6. A preliminary hearing is held to ensure the case has enough merit to continue. If no probable cause exists, the case is dismissed. If cause is determined, the case moves to the adjudicatory hearing.
7. Also during this preliminary phase, a transfer hearing may be held to decide whether a case should be transferred to Circuit Court for trial. Transfer may occur when a juvenile, 14 years of age or older, is alleged to have committed an especially serious crime and it is decided the juvenile should be tried as an adult.

Under what circumstances can a juvenile be tried as an adult?

If a juvenile is 14 years or older and charged with a felony offense, the Commonwealth may ask the juvenile court to transfer the case to the circuit court for trial as an adult. In most cases, the transfer decision is within the discretion of the court after considering the juvenile's age, the seriousness and number of offenses, prior record with the court, whether he or she has previously escaped, any degree of mental impairment, school record, and mental, emotional, and physical maturity. If the court decides that the juvenile can best be treated in the juvenile system, it can deny the transfer.

The Commonwealth's Attorneys has the discretion to transfer juveniles charged with violations of certain gang offenses and repeat violations of certain drug offenses to the circuit court for trial as an adult. Also, juveniles charged with an offense defined as an act of violence, if previously adjudicated delinquent of an act of violence, are automatically transferred to the circuit court for trial as an adult. However, if the charge is murder or aggravated malicious wounding, the court must transfer the case for trial as an adult. If the charge is one of several enumerated violent felonies, the discretion to transfer the case lies solely with the Commonwealth's Attorney.

8. At the adjudicatory hearing, witnesses and testimony are presented much like an adult trial and the judge decides whether the juvenile is guilty. If the juvenile is found not guilty, the case is dismissed. If the juvenile is found guilty, a dispositional hearing is held. Frequently, judges order a pre-disposition report to be prepared to assist in determining an appropriate disposition. The pre-disposition report contains extensive background information about the juvenile, his or her family and community environment, his or her school record, and services he or she may need.

What is an adjudicatory hearing?

The word adjudicate means to judge or pass judgment. In an adjudicatory hearing, the court hears the evidence in a case and determines whether the allegations contained in the complaint are supported by the evidence. In criminal cases, there is a determination of whether the defendant is guilty.

9. At the dispositional hearing, the judge decides appropriate sanctions and services. Sanction means a penalty for not complying with a law or other rule. The judge may impose community sanctions such as warnings, restitution, or fines. The juvenile may also be placed on probation, required to participate in programs sponsored by the court or community agencies, or placed in post-dispositional detention.

What is a dispositional hearing?

The word disposition means the manner in which a case is settled or resolved. In a dispositional hearing, the court considers and selects penalties and services appropriate for an offender. It is important to remember that the juvenile justice system is concerned not only with punishment, but also with rehabilitation. For example, a court may not only place an offender on probation and order restitution, but also order him or her to participate in counseling or another program to address underlying problems.

What is restitution?

Restitution describes the act of restoration. It means an offender is required to repay money to the victim or take other action to restore the victim to his or her status before the criminal act. For example, someone who destroys the property of another may be required to pay the cost of repair or replacement, such as when a school building has been vandalized. The basic purpose of restitution is to achieve fairness.

What does probation mean?

Probation means the offender is allowed a period of time to show he or she has learned from his or her mistakes and can behave. During this period, offenders are supervised by the court, obey rules of probation, and report to a probation officer who closely monitors conduct. If an offender abides by the conditions, he or she is released from probation. If an offender does not abide by the proscribed conditions, he or she may be brought before a judge, who may impose more severe penalties.

Once the requirements have been met, the juvenile is released by the court. The judge may also decide to commit the juvenile to the Department of Juvenile Justice, where he or she will undergo psychological, educational, social, and medical evaluations and be placed in a residential facility or a juvenile correctional center. Juveniles who complete their commitment and return to their home communities are usually supervised by the court.

What is a juvenile correctional center?

A juvenile correctional center is a place where a juvenile committed to the Virginia Department of Juvenile Justice receives 24-hour supervision, education, treatment services, recreational services, and a variety of special programs.

10. A case may be sent into the appeals process following the dispositional hearing. The Circuit Court may also receive a case through direct indictment.



More in-depth information about J&DR Courts is available in a fact sheet from the Virginia Supreme Court (www.courts.state.va.us/courts/jdr/jdrinfo.pdf).

At the state level, the Virginia Department of Juvenile Justice (DJJ) has primary responsibility for Virginia's system of juvenile justice services (www.djj.virginia.gov).

What are Court Services Units (CSUs)?

At the local level, access to the juvenile justice system is through the local court service unit (CSU). Thirty-five CSUs serve the Judicial Districts throughout Virginia. Descriptions and contact information for each of the 35 CSUs can be found on the DJJ website. CSUs assist with all steps in the juvenile justice process.

What are the essential functions of the CSU throughout the Commonwealth?

Juvenile Intake – Intake services are provided 24-hours a day at each of the 35 court service units across the state. The intake officer on duty, or on call after business hours, has the authority to receive, review, and process complaints. Based on the information gathered, a determination is made whether a petition should be filed with the juvenile court and, if so, whether the juvenile should be released to the parents or detained pending a court hearing. The CSU provides diversion and referral to other community resources to most first-time offenders.

Investigations and Reports – Social histories make up the majority of the reports that CSU personnel complete. These court-ordered investigations describe the social adjustment of the youth and provide timely, relevant, and accurate data. This information helps the court select the most appropriate disposition for the case and provides the basis for the CSU to develop appropriate services for the juvenile and the family. Other reports and investigations completed by CSU personnel include case summaries to the Family Assessment and Planning Teams, commitment packets for the Reception and Diagnostic

Center, interstate compact reports, transfer reports, parole transition reports, ongoing case documentation, and transitional services referral packets.

Domestic Relations – In addition to handling delinquency and Child in Need of Service (CHINS)/Supervision complaints, CSUs provide intake services for domestic relations complaints. These complaints include non-support, family abuse, adjudication of custody (permanent and temporary), abuse and neglect, termination of parental rights, visitation rights, paternity, and emancipation. In some CSUs, services such as treatment referral, supervision, and counseling are provided in adult cases of domestic violence.

Custody Investigations – Although the majority of custody investigations for the court are performed by the local Department of Social Services’ staff, some CSUs also perform investigations to provide recommendations to the court on parental custody and visitation based on the best interests of the youth and defined criteria in the *Virginia Code*. This investigation includes an extensive review of the home environment, examining the background, role, and relationship of the youth’s parent(s) or caretaker(s) along with any individuals living in the home.

Supervised Probation – Supervised Probation is the most frequently used sentence for juveniles adjudicated as guilty of a charge filed against them. This approach focuses on the principles of community protection (public safety), accountability, and competency development.

Parole Services – Upon release from a juvenile correction center (JCC) or private placement setting, individuals are provided parole services to assist in the transition back to the community. Parole officers are assigned to offenders to provide case management services, broker appropriate transitional services, and monitor the offender’s adjustment to the community. These individuals may receive family and individual counseling, referral to other community services, vocational services, or specialized educational services.

What is the procedure for re-enrolling students who have been in juvenile correctional facilities?

The *Code of Virginia §22.1-17.1* establishes the responsibility of the Board of Education, in cooperation with the Department of Juvenile Justice to publicize regulations for the re-enrollment in the public schools of youth who have been in the custody of the Department of Juvenile Justice. The regulations promote the exchange of educational information concerning students among the Departments of Juvenile Justice and Correctional Education (DCE), local and regional detention homes, and local education agencies (LEAs).

The regulations are intended to:

- best serve all parties, including the student, their family, schools, and the criminal justice system;
- coordinate the sharing of information between entities;
- provide the best possible education experience to juveniles.

RESOURCES

The procedures for re-enrollment, its timelines, and FAQs for various audiences are set forth on the Virginia Department of Education’s website at www.doe.virginia.gov/support/student_family/re-enrollment.

How are juvenile criminal records expunged?

Expungement of criminal records is a key element of juvenile justice. *Virginia Code §16.1-306* defines how and when juvenile records are expunged. If a juvenile is convicted of an offense prior to turning 18, their non-felony records are automatically expunged when they turn 19. There are a number of exceptions but for most minor crimes, juvenile records are purged.

What do the terms “Child in Need of Services” and “Child in Need of Supervision” mean?

A *Child in Need of Services* (CHINS) is a child whose behavior, conduct, or condition poses a risk of harm to himself or another person. A child who is alleged to be abused or neglected is typically considered a child in need of services.

A *Child in Need of Supervision* (CHINSup) is a child who is habitually absent from school (truant) or who abandons his family or guardian (runaway) in a manner that requires intervention by the court to protect the child’s welfare.

IV. SCHOOL SAFETY

A. The School Safety Audit

What is the School Safety Audit?

The *Code of Virginia* §22.1-279.8 establishes requirements for school safety audits and defines a school safety audit as:

“a written assessment of the safety conditions in each public school to (i) **identify** and, if necessary, **develop solutions for physical safety concerns**, including building security issues and (ii) **identify and evaluate any patterns of student safety concerns** occurring on school property or at school-sponsored events. Solutions and responses shall include recommendations for structural adjustments, changes in school safety procedures, and revisions to the school board’s standards for student conduct.”

School boards must mandate that all schools under the board’s supervisory control are to conduct school safety audits annually.

What are the Components of the School Safety Audit?

The Virginia Center for School and Campus Safety (VCSCS) in the Virginia Department of Criminal Justice Services (DCJS) has been designated to collect, analyze, and disseminate various Virginia school safety data including school safety audit information. The School Safety Audit Program in Virginia includes five components:

1. Virginia School Safety Survey (administered annually)

Each year, the Virginia Center for School and Campus Safety administers the web-based Virginia School Safety Survey to collect school safety audit information from all public schools, kindergarten through 12th grade. Principals are responsible for completing the surveys. The information collected allows VCSCS and state policy makers to describe school safety policies, practices, and conditions in Virginia’s public schools.

2. The Division Level Survey (administered as needed)

As needed, the VCSCS administers the web-based Division Level Safety Survey to collect division-wide information from all public school divisions in the Commonwealth. Superintendents are responsible for completing the survey. The information collected allows VCSCS and state policy makers to describe school safety policies, practices, and conditions in Virginia’s public schools.

3. Virginia School Crisis Management Plan Review and Certification (annually)

In accordance with *Code of Virginia* §22.1-279.8, by August 31 of each year the division Superintendent shall certify that all schools in his/her division completed a written school crisis, emergency management, and medical emergency response plan, referred to as the Crisis Management Plan, and that these plans were approved by the local school board. The school board shall also provide copies of these plans to the local chief law enforcement officer, fire chief, chief emergency medical services official, and an emergency management official. The Crisis Management Plans over events such as

- natural disasters,
- loss or disruption of power, water, communications, or shelter;
- bus or other accidents;
- medical emergencies, including student or staff deaths;
- explosions, bomb threats, or gun, knife, or other weapons threats;
- spills or exposures to hazardous substances;

- the presence of unauthorized persons or trespassers;
- the loss, disappearance, or kidnapping of a student, or hostage situations;
- violence on school property or at school activities;
- incidents involving acts of terrorism; and
- other incidents posing a serious threat of harm to students, personnel, or facilities.

4. Virginia Secondary School Climate Survey (administered in the Spring)

In accordance with *Code of Virginia* §22.1-279.8, the VCSCS is required to survey the overall climate and safety conditions of schools in Virginia. In order to achieve this mandate, the *Secondary School Climate Survey* began in the spring of 2013 by surveying all 7th and 8th grade students and teachers in the Commonwealth. In the spring of 2014, all 9th–12th grade students and teachers were surveyed. This pattern of alternating survey approaches will continue. The anonymous survey provides schools with an insight into student and teacher perceptions of school rules and discipline, teacher-student relationships, student engagement, and other safety and climate issues.

5. The School Safety Inspection Checklist (due Fall 2017)

As a result of the 2013 Governor’s School and Campus Safety Task Force, legislative updates were made to *Code of Virginia* §22.1-279.8. One such update was the required *School Safety Inspection Checklist*. All public schools in Virginia are required to complete a school building safety inspection using a standardized walk-through *checklist*. Every three years, the Division Superintendent will collect all checklists from the division and certify their completion to VCSCS by August 31 of that year. The first checklist certification was due to VCSCS in 2014. The completed checklists shall be made available to the chief law enforcement officer of the locality upon request.



For an overview of the school safety audit program or to view more in-depth details about any component visit: www.dcjs.virginia.gov/node/355.

The Virginia Department of Criminal Justice Services publishes an annual report with the results from that year’s safety audit. View the *School Safety Audit Survey Results* at: www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/law-enforcement/2015-virginia-school-safety-survey-results.pdf.

The *School Crisis, Emergency Management and Medical Response Plan* provides schools with important information, guidance, and templates for developing a well-crafted crisis response plan. It is available at: www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/law-enforcement/school-crisis-emergency-management-and-medical-emergency-response-plan.pdf.

The *Critical Incident Response for School Faculty and Staff* series includes a manual and a video which are designed to assist in the training of school and public safety personnel as they prepare for a crisis incident at schools. The materials can be found at the following locations:

Manual – www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/law-enforcement/critical-incident-response-accompanying-manual.pdf.

Video – <http://vimeopro.com/rsanimation/va-schools-active-shooter>. **password** “rsmaccess”.

The *Bus Driver and Monitor Safety and Security* series represents a training resource for school personnel, particularly those working in transportation assignments, for the prevention and proper response regarding crisis situations or criminal activity.

Manual – www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/law-enforcement/virginia-schools-bus-driver-and-monitor-safety-and-security-manual.pdf.

Video – <http://vimeopro.com/rsanimation/va-school-bus-safety>.

Is the Safety Audit a “Written Assessment”?

Code of Virginia §22.1-279.8 defines the safety audit (to be conducted each year by school principals) as a “written assessment” of safety conditions in every public school.

To meet the requirement for a “written assessment,” each school should

- conduct a review of all components of the safety audit (safety survey, building inspection checklist, crisis plan, DCV data, and climate survey, where appropriate);
- identify areas of concern;
- identify any needed changes;
- identify safety concerns and solutions
- complete the template, or a similar document, provided on the audit website; and
- submit the completed template to the division safety audit committee and/or the Superintendent by December 31 of each year.

What materials can be omitted from an audit report?

Pursuant to *Code of Virginia* §2.2-3705.2(7), schools may exclude security plans and specific vulnerability assessments from disclosure to the public. This exclusion option is to prevent potentially dangerous information from being available to those who may wish to commit criminal acts. In the Safety Audit Template, and in any audit component, these portions are noted.



School Safety Audit Template– www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/law-enforcement/school-safety-audit-template-schools.docx

What is a School Safety Audit Committee?

The *Code of Virginia* §22.1-279.8 specifies that each division superintendent must create a school safety audit committee which will review audits and make recommendations to the superintendent regarding improving school safety. The audit committee reviews the school safety audits from all schools in the division. The safety audit committee should then make recommendations for improving school safety to the Superintendent and/or school board. VCSCS created a template to assist in this process. Once the superintendent and/or school board has reviewed the recommendations, the Superintendent will certify audit completion to the Virginia Center for School and Campus Safety by the end of August each year. This certification will be due in August 31, 2017, and each year thereafter.



Division level Audit Template– www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/law-enforcement/guidance-division-wide-safety-audit-committee-formation-and-responsibilities.pdf.

Who Serves on the School Safety Audit Committee?

The committee should include:

- a parent,
- a teacher,
- a local law enforcement representative,
- an emergency services agency representative,
- a local community services board representative, and
- a judicial or public safety representative.

 RESOURCES

To view a recommended meeting schedule and other guidance visit:

www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/law-enforcement/guidance-division-wide-safety-audit-committee-formation-and-responsibilities.pdf.

Are there any other new requirements for school divisions?

Yes, new requirements added to the *Code of Virginia* §22.1-279.8 and §22.1-137.2 include:

- developing a school safety audit committee,
- designating an emergency manager, and
- conducting lock down drills.

What are an emergency manager’s responsibilities?

The school division emergency manager plays an important role in both responding to events and preparing for possible crises. The emergency manager should be prepared to serve as liaison between school personnel and first responders, coordinate resources and implement response plans, and distribute information to communicate with parents and community members. Emergency managers can prepare for crises through drills, checklists, audits, planning, and other activities.

The emergency manager is also responsible for reporting emergencies to the Virginia Department of Criminal Justice Services via the following website: www.dcjs.virginia.gov/victims-services/report-campus-local-emergency.

 RESOURCES

For guidance from VCSCS on designating an emergency manager and suggested responsibilities, visit: www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/law-enforcement/virginia-educators-guide-conducting-emergency-drills.pdf

What are Lockdown Drills?

All public schools in Virginia are required to conduct lockdown drills each year. A lockdown drill is an exercise to prepare schools for a critical incident, particularly an active shooter within a school. During these exercises, schools lockdown entrances, classrooms, and students. Staff follow a plan of shelter-in-place or evacuation, depending on the circumstances and school policy. Although lockdown drill exercises are required by law, other types of emergency drills, including evacuation and shelter-in-place drills should also be conducted. The purpose of any emergency drill is to prepare students, staff, and first responders to cope with an actual crisis and simultaneously assess and improve existing plans.

A lockdown drill is different than a fire drill. In a lockdown drill, doors are closed and, when appropriate, locked, students are directed out of halls and open areas into closed and supervised areas, and security procedures are enhanced. During a fire drill, all students, staff, and personnel must leave the building in an orderly fashion.

During the 2016 General Assembly session, the *Virginia Code* was amended to require every public school to hold a lock-down drill at least twice during the first 20 school days of each school session and at least two additional lock-down drills during the remainder of the school session.

However, Section 8VAC20-131-260 of the Board of Education’s Regulations Establishing Standards for Accrediting Public Schools in Virginia (Standards of Accreditation) requires that every public school conduct at least two simulated lock-down drills and crisis emergency evacuation activities each school year, one in September and one in January. Therefore, in order to comply with the *Code of Virginia* and the Standards of Accreditation, every public school will need to conduct two lock-down drills during the first 20 days of school – one of which must occur in September – and two additional lock-down drills during the remainder of the school year – one of which must occur in January.

The *Virginia Code* was also amended to require every public school to hold a fire drill at least twice during the first 20 school days of each school session and at least two additional fire drills during the remainder of the school session. The State Fire Marshall, however, advises that the Virginia Statewide Fire Prevention Code has a more stringent requirement of an initial fire drill within the first 10 days of the school session and one fire drill per month. However, Section 8VAC20-131-260 of the Standards of Accreditation requires that every public school conduct fire drills at least once a week during the first month of school and at least once each month for the remainder of the school year. Therefore, in order to comply with the Standards of Accreditation, every public school will still need to conduct at least one fire drill per week during the first month of school and at least one fire drill each month for the remainder of the 2016-17 school year.

	Lockdown Drills	Fire Drills
First 20 days of School	At least twice during the first 20 days of school (one must occur in September)	One per week during the first month of school
Remainder of School Year	At least two additional lockdown drills (one must occur in January)	Once a month

 RESOURCES

Additional guidance on school emergencies can be found in *The Virginia Educators Guide for Planning and Conducting School Emergency Drills*, available at: www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/law-enforcement/virginia-educators-guide-conducting-emergency-drills.pdf.

Following an emergency, when and how should schools contact authorities?

During an emergency or crisis, the safety of students and school personnel is paramount. First responders (law enforcement, fire, emergency medical services) should be contacted immediately. Once persons are safe and first responders are notified, schools should contact the Virginia Department of Criminal Justice Services to initiate victim assistance procedures. These resources include: victim advocates, counseling, access to the victims’ compensation fund, and other programs.

 RESOURCES

For more information on contacting authorities following an emergency, see the VCSCS document: *Guidance for School Systems in the Event that Victims Arise from an Emergency*, which can be found at: www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/law-enforcement/guidance-school-systems-event-victims-arise-emergency.pdf

B. Threat Assessment

What is a Threat?

According to the Virginia Department of Criminal Justice Services Model Policies, Procedures, and Guidelines:

“A threat is a concerning communication or behavior that suggests a person may intend to harm someone else. The threat may be spoken, written, or gestured and is considered a threat regardless of whether it is observed or communicated directly to the target of the threat or observed by or communicated to a third party and regardless of whether the target of the threat is aware of the threat existing in any fashion, whether orally, visually, in writing, or electronically.”

Are there different levels of threats?

The VCSCS identifies threats as low risk, moderate risk, high risk, and imminent.

- A low risk threat is one in which the person/situation does not appear to pose a threat of violence and any underlying issues can be resolved easily.
- A moderate risk threat is one in which the person/situation does not appear to pose a threat of violence at this time but exhibits behaviors that indicate a continuing intent to harm and potential for future violence.
- A high risk threat is one in which the person/situation appears to pose a threat of violence, exhibiting behaviors that indicate both a continuing intent to harm and efforts to acquire the capacity to carry out the plan.
- An imminent threat exists when the person/situation appears to pose a clear and immediate threat of serious violence toward others that requires containment and action to protect identified target(s).

What is Threat Assessment?

A threat assessment is a fact-based process relying primarily on an appraisal of behaviors to identify potentially dangerous or violent situations and address them. The primary purposes of student threat assessment are to:

- reduce the risk of violence;
- ensure a prepared response;
- reduce liability exposure; and
- instill public confidence that schools can keep students, staff, and personnel safe.

Threat assessment was originally developed by the U.S. Secret Service after a series of school shootings. In 2004, a joint report of the U.S. Secret Service and U.S. Department of Education entitled *The Final Report and Findings of the Safe School Initiative: Implications for the Prevention of School Attacks in the United States* recommended that schools train threat assessment teams in order to respond to student threats of violence.

What must schools do regarding threat assessments?

According to the Code of Virginia §22.1-79.4, every school board:

- must have policies in place to conduct threat assessments of persons (students and non-students) who appear dangerous;
- must have a referral process in those policies;
- must assemble a threat assessment team;
- must convey the findings of the threat assessment team to the superintendent; and
- must report quantitative data on threat assessment proceedings to the Virginia Department of Criminal Justice Services.

 RESOURCES

In Fall 2016, DCJS will debut an informational video entitled *K12 Threat Assessment in VA: A Prevention Overview for School Staff, Parents, and Community Members*. The purpose of the video is to summarize threat assessment Virginia for school staff, parents, students, and community members. The video will be available on the VCSCS Publications and Links webpage at: [K12 Threat Assessment Video](#).

What is a threat assessment team?

The threat assessment team shall

- provide guidance to students, faculty, and staff regarding recognition of threatening or aberrant behavior that may represent a threat to the community,
- identify members of the school community to whom threatening behavior should be reported, and
- implement the policies adopted by the school board.

The superintendent of each school division appoints this committee and the team may serve one or more schools. Persons to be included must have expertise in human resources, education, school administration, mental health, and law enforcement.

 RESOURCES

VCSCS provides guidance on the formation of threat assessment teams and reporting requirements at www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/law-enforcement/guidance-threat-assessment-team-formation-and-reporting.pdf.

What does a student “threat assessment” involve?

The threat assessment process is designed to identify and assess risks in a deliberate and thorough manner. In determining response strategies to mitigate the risk and to provide assistance, as needed, it is helpful to classify threats by level. Based on the information collected, the threat assessment team may classify threats using the following basic criteria:

Threat Levels	Criteria
Low risk threat	person/situation does not appear to pose a threat of violence and any underlying issues can be resolved easily.
Moderate risk threat	person/situation does not appear to pose a threat of violence at this time but exhibits behaviors that indicate a continuing intent to harm and potential for future violence.
High risk threat	person/situation appears to pose a threat of violence, exhibiting behaviors that indicate both a continuing intent to harm and efforts to acquire the capacity to carry out the plan.
Imminent threat	person/situation appears to pose a clear and immediate threat of serious violence toward others that requires containment and action to protect identified target(s).

In general, steps to conducting a threat assessment include the following:

1. Evaluate and classify threat.
2. Determine whether a threat has been made or posed.
3. If threat has been made, respond appropriately (e.g., reprimand or other disciplinary action).
4. If threat has been posed, determine whether low, moderate, high or imminent.
5. Based on classification (see criteria above) apply response strategies.
6. If high or imminent, conduct a safety evaluation – immediately take precautions to protect potential victim(s), consult with law enforcement, notify parents, begin a mental health evaluation, take appropriate disciplinary action.
7. Implement a safety plan – written plan; maintain contact with student; revise plan as needed.

RESOURCES

Conducting a student threat assessment requires preparation and appropriate training. More in-depth information is available from the Virginia Center for School and Campus Safety's *Threat Assessment in Virginia Public Schools: Model Policies, Procedures, and Guidelines* at: www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/law-enforcement/_0.pdf.

The Virginia Center for School and Campus Safety has collaborated with the Virginia Department of Education and researchers from the University of Virginia to produce the *Threat Assessment in Virginia Schools: Technical Report of the Threat Assessment Survey for 2013-2014*. This report, available on the VCSCS publications website, describes the threat assessment process, frequency and outcomes of threat assessment, and provides information on threats.

Are schools required to take action if a student is thought to be possibly suicidal?

Code of Virginia §22.1-272.1 requires licensed school personnel who have reason to believe a student is at imminent risk of suicide, to contact, as soon as practicable, at least one of the student's parents. If the student has indicated parental abuse or neglect, contact with the parent is not to be made and social services is to be notified.

RESOURCES

The law also requires the Board of Education to develop suicide prevention guidelines. For additional information, see Virginia Board of Education *Suicide Prevention Guidelines* at: www.doe.virginia.gov/boe/guidance/health/suicide_prevention.pdf.

The Virginia Department of Health provides several links and resources for suicide prevention. They can be found at: www.vdh.virginia.gov/livewell/programs/suicide/resources.html

There are several federal agencies that provide significant guidance and information on suicide prevention. The National Institute on Mental Health posts information on risks, identification, individual predictors, and other topics at www.nimh.nih.gov/health/topics/suicide-prevention/index.shtml. The National Suicide Prevention Lifeline is a resource for persons in crisis (contemplating suicide) or persons wishing to offer assistance. They can be reached at 1-800-273-TALK (8255) or on their website at www.suicidepreventionlifeline.org.

The Virginia Department of Behavioral Health and Developmental Services offers training on suicide prevention. This program, *Applied Suicide Intervention Skills Training (ASIST) for Trainers*, produces certified trainers who

can then work with schools, public safety, or other agencies. Visit the DBHDS website at www.dbhds.virginia.gov for more information.

What information is available to threat assessment teams established by local school boards?

2016 Virginia legislation ([HB 1013](#)) provides that, upon a preliminary determination by the threat assessment team that an individual poses a threat of violence to self or others or exhibits significantly disruptive behavior or need for assistance, a threat assessment team may obtain criminal record, juvenile record, and health record information. This is now consistent with the procedures in higher education. Threat assessment team members must not share this information with anyone beyond the purposes of the threat assessment.

Are threat assessment team records discoverable through the Freedom of Information Act?

No. Virginia legislation ([HB 1013](#)) specifically excludes from mandatory disclosure under the Freedom of Information Act (FOIA) records received by the Department of Criminal Justice Services as part of threat assessment, school safety audits, and school crisis, emergency management, and medical emergency response plans of public schools to the extent that such records reveal security plans, walk-through checklists, or vulnerability and threat assessment components.

In addition, information held by a threat assessment team relating to the assessment or intervention with a specific individual is excluded from mandatory disclosure under the FOIA. However, if an individual who had been under assessment commits certain violent acts, any records created by the team shall be made publicly available. The personally identifying information of any person who provided information to the threat assessment team under a promise of confidentiality must be removed prior to such disclosure.

Are school personnel protected if they alert authorities to a potentially dangerous student?

Virginia legislation extends civil immunity to any person who reports, with good faith, information that an individual poses credible danger of serious bodily injury or death to one or more students, school personnel, or others on school property. *Code of Virginia* §8.01-47 extends the protections afforded to school personnel who provide information to authorities regarding potentially dangerous persons.

C. School Safety Personnel

Who is charged with keeping our schools safe?

In addition to traditional school personnel – administration, staff, and teachers – schools also have designated assistance to ensure safety: **School Resource Officers** and **School Security Officers**.

What is a school resource officer?

A school resource officer is a sworn law enforcement officer who is assigned, by their hiring agency, to work at a school either full- or part-time. School resource officer (SRO) is defined in *Code of Virginia* §9.1-101 as follows:

“School resource officer means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.”

What do school resource officers do?

In accordance with the statutory definition, SROs provide law-enforcement and security services in Virginia public elementary and secondary schools. The specific duties and responsibilities, as well as basic operational procedures, are typically defined in a Memorandum of Understanding (MOU) or other written agreement between the school division and the local law enforcement agency.

The Virginia SRO program model identifies the primary role as law enforcement, which includes crime prevention and school safety activities. Additional recognized roles include law-related educator, community liaison (especially related to the juvenile justice system), and role model.

As of 2014 (as reported by the *2014 Virginia School Safety Audit*), 81% of all schools in Virginia used SROs. SROs were assigned to 99% of high schools, 90% of middle schools, and 27% of elementary schools, respectively.

What is a school security officer?

A school security officer (SSO) is an employee of the local school system and is defined in *Code of Virginia §9.1-101* as:

“School security officer means an individual who is employed by the local school board for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies, and detaining students violating the law or school board policies on school property or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.”

What do school security officers do?

In accordance with the statutory definition, SSOs have a primary responsibility to maintain order and discipline. SSOs are employed by the school division and their specific duties and responsibilities are prescribed by the employer.

Examples of typical SSO responsibilities include patrolling school buildings and grounds to ensure compliance with school rules and regulations, greeting visitors to ensure compliance with established visitor procedures, reporting any out-of-the-ordinary incidents or conditions, reporting school conduct violations and crimes in accordance with school policies and state laws, taking authorized action to protect persons and property, and participating in school safety and crisis response planning and action.

SSOs must meet requirements for SSO Certification issued through the Virginia Department of Criminal Justice Services.



Additional information about the SSO Certification Program can be obtained from the Virginia Center for School and Campus Safety at www.dcjs.virginia.gov/virginia-center-school-and-campus-safety.

How do the roles of SROs and SSOs compare?

School Resource Officer	School Security Officer
1. A law enforcement agency employee	1. A school employee
2. Complying with federal, state, and local statutes	2. Complying with and guided by local school policies and regulations
3. Functions under the direction of law enforcement command	3. Functions under the direction of local school principal or designee
4. Assigned to school and community activities	4. Primarily assigned to school campus activities

5. Responsible for enforcing state law	5. Responsible for enforcing school policy
6. Responsible for custody and arrest in conformance with law	6. Responsible for detaining individuals
7. Search must be in accordance with state and federal law; search typically requires probable cause.	7. Can search students and others based upon reasonable suspicion
8. Laws and custody requirement procedures apply	8. May detain and question students
9. Acts under the standards of law	9. Acts in absence of parents (<i>in loco parentis</i>)
10. Use of force is permissible as guided by department policy	10. Use of force should be limited and only used in accordance with local school policy

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V. SEARCH AND SEIZURE

Under what circumstances can a student be searched?

It is important to recognize that all searches entail an invasion of privacy. Whether a particular search is legally permissible involves a balancing of competing interests: the individual student’s right to privacy and security against the school division’s interests in maintaining order, discipline, and the security and safety of other students.

Best practice involves coherence in school division mission statement, student conduct policy, search policy, and procedures for implementing searches. The mission statement should clearly articulate the school division’s commitment to provide a safe and disciplined school environment conducive to learning. Consistent with the mission statement, the student conduct policy should define expectations and rules, including privacy expectations. Virginia law requires written notice of the student conduct policy to students and their parents; best practice is to notify, or otherwise make available, the written school policy on student searches also.

Are there different types of searches?

Yes. Searches can be categorized as follows:

- blanket and random administrative searches;
- warrantless or reasonable suspicion searches;
- consent searches; and
- law enforcement searches based on probable cause.

What are blanket and random administrative searches?

Blanket and random administrative searches are typically conducted to serve as a deterrent in the interest of maintaining safe and drug-free schools. These random searches, including group searches, may be conducted only in accordance with formally adopted school board policies which include procedures to ensure that searches are conducted in a neutral fashion. Random locker searches, metal detector screenings, and use of drug-detection canines are examples of blanket searches.

What are best practices in conducting blanket and random searches?

Key best practices involve written notice to students (reducing expectations of privacy) and procedures which ensure that the searches are conducted in a random, systematic, nonselective manner in accordance with a pre-determined plan.

Type of Search	Best Practices
Locker searches	<p>Notice: Written policies and periodic notice to students (and their parents) which make it clear that the school retains ownership and control of the locker and that the student’s use of the locker does not constitute exclusive possession.</p> <p>Neutral plan: Procedures/documentation which ensure a neutral blanket screening or random search.</p>
Use of metal detectors at school entrances	<p>Notice: Written policies and notice to students (and their parents) which makes it clear that persons entering the school are subject to metal detector screening. In addition, written warning notices should be posted conspicuously at the entrances of the school to notify visitors that they will be subject to this form of inspection.</p> <p>Neutral plan: Procedures that carefully limit the discretion of school employees who operate metal detectors and that provide a very detailed script for these employees to follow as they search for weapons.</p>

<p>Use of drug detection canines</p>	<p>Notice: Periodic written notice that trained drug-detection canines may be used. Requires planning and sensitivity to limit direct contact with students.</p> <p>Neutral plan: Canine sniffs of student lockers in a sweeping fashion do not initially constitute a “search.” If however, the dog alerts to a specific locker, then individualized suspicion to search the specific locker exists. Likewise, using dogs to sniff around student automobiles in a sweep of the school parking lot does not ordinarily constitute a search. Educational policy considerations regarding the health and psychological well-being of students also come into play when police-trained dogs are brought near students in schools. Sound educational judgment should be used in deciding whether, when, and under what circumstances drug sniffing dogs will be used in schools.</p>
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What is a warrantless or reasonable suspicion search?

A warrantless or reasonable suspicion search is based on suspicion of either a criminal offense or a violation of school rules and is conducted with a view to discovery of evidence of the offense or violation. The search can be for contraband (e.g., drugs, alcohol, explosives or fireworks, and/or prohibited weapons); an instrument used to commit an offense or school rule violation (e.g., a weapon used to assault or threaten another); the fruits or spoils of an offense or school rule violation (e.g., the cash proceeds of a drug sale, gambling profits, or a stolen item) or other evidence of an offense or school rule violation (e.g., gambling slips, hate pamphlets, records of drug or illegal gambling debts, etc.).

How is a warrantless or reasonable suspicion search initiated?

To initiate a lawful search, a school official must have reasonable grounds to believe that:

- a law or school rule has been or is being broken;
- a particular student(s) has committed the violation or infraction;
- the suspected violation or infraction is of a kind for which there may be physical evidence (e.g., contraband, instrumentality, fruits or spoils, or other evidence); and
- the sought-after evidence would be found in a particular place associated with the student(s) suspected of committing the violation or infraction.

What is reasonableness?

In order for a search to be reasonable, a school official must satisfy two separate inquiries:

- Was the search justified at its inception?
- Was the search conducted in an appropriate manner, that is, was the actual search reasonable in its scope, duration, and intensity?

A search is constitutionally **permissible at its inception** when the school official has reasonable grounds based on the totality of the known circumstances for suspecting that the search will reveal evidence that the student has violated or is violating either the law or the rules of the school. Reasonable grounds are more than a mere hunch or unsubstantiated rumor.

A search will be **reasonable in its scope** and intensity where it is reasonably related to the objectives of the search and is not excessively intrusive in light of the age and sex of the student and the nature of the suspected infraction.

It is important to note, according to a 2010 Virginia Attorney General Opinion (10-105), that electronic devices, such as laptops and cell phones, are permitted to be searched by school officials when based on the reasonable suspicion that the particular student is violating the law or the rules of the school.

The legal standard for searches on school grounds extends from the Supreme Court ruling New Jersey vs. TLO, 469 U.S. 325 (1985), in which the court ruled that school officials can search students when that student has violated either the law or school policy and the school has reasonable suspicion that additional evidence of malfeasance exists and is held by the student. Reasonable suspicion is defined as: “[R]easonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating either the law or the rules of the school.”

Reasonableness is predicated on clearly explicated school rules and policies. For example, if a school policy exists that precludes possession of cell phones and a student is found with a cell phone, the student has violated school policy. A search of the cell phone, however, would only be permissible if school officials reasonably believe the student has engaged in additional wrongdoing (like cyberbullying or sexting).

What is a consent search?

A consent search of a student exists when a student grants the school official permission to search. A student’s consent is valid only if given willingly and with knowledge of the meaning of consent. School officials have the burden of proving that the search was voluntary and documenting all aspects of obtaining permission to search.

A school official may ask for permission to conduct a search, even if the official does not have reasonable grounds to believe that the search would reveal evidence of an offense/ infraction. A student’s refusal to give permission may not be considered as evidence of guilt. If the school official already has reasonable suspicion to believe that evidence of an offense/infraction will be found in a particular place, school officials need not rely on consent being given and may conduct a search of that location even over a student’s objection.

When can a school resource officer (SRO) search a student?

SROs are law enforcement officers and searches by SROs must be based on the higher standard of probable cause rather than the reasonable suspicion standard for school administrator searches. Put simply, probable cause means a reasonable belief that a person has committed a crime.

As a matter of practice, the MOU between the school division and the local law enforcement agency should define and clarify the responsibilities of the school resource officer related to school searches. In general, the MOU should clarify:

- that any search by a school resource officer shall be based upon probable cause and, it is recommended that a search warrant will be obtained unless exigent circumstances are present;
- that the school resource officer shall not become involved in administrative searches unless specifically requested by the school to provide security, protection, or handle contraband; and
- that at no time should the SRO request that an administrative search be conducted for law enforcement purposes or have the administrator act as his or her agent.

When can a school security officer (SSO) search a student?

SSOs are school employees who serve under the guidance of the principal. SSOs are under the same search requirements as school officials; however, SSOs are not typically the persons designated by the principal to conduct student searches. Because SSOs can assist school officials in conducting student searches, they should be trained in appropriate search procedures and knowledgeable of laws and policy that govern student searches.

Are there any special considerations when school officials encounter child pornography?

According to the 2010 Virginia Attorney General Opinion (10-105), “Upon discovery of potential child pornography, the teacher or principal should promptly contact the appropriate law-enforcement agency within his jurisdiction and turn the material over to one of its authorized agents without distributing the material to others.” This action reduces the risk of exposure of the child to other individuals and also reduces the forensic chain of custody.



For more information on school searches, see the Virginia Department of Education’s *Virginia School Search Resource Guide* at www.doe.virginia.gov/boe/guidance/safety/school_searches.pdf

A new guide addressing searches in schools will be available on the Virginia Center for School and Campus Safety website in the near future. It will be known as the *School/Police Partnership Implementation Guide*. This guide will inform school administrators, decision makers, and public safety personnel on the scope and parameters of searches in schools and law enforcement authority. A model MOU will also be included in the new Guide.

Is student drug testing permissible?

Code of Virginia §22.1-279.6 states that “a school board may, in its discretion, require or encourage drug testing in accordance with the Board of Education’s guidelines and model student conduct policies.” The state statutory provisions do not require the adoption of drug testing programs by local school boards, but allow school boards to decide whether drug testing will be encouraged or required. The Virginia Department of Education advises:

“The question of whether to test students for drugs involves myriad complex issues that must be fully understood and carefully weighted before testing begins... Before implementing a drug testing program, local school boards should consult with legal counsel familiar with the laws regarding student drug testing.”



For more in-depth information about drug testing in schools, see the Virginia Department of Education’s guidance at www.doe.virginia.gov/boe/guidance/health/drug_testing_guidelines.pdf.

VI. ISSUES AND TOPICS

A. Student Conduct

What responsibilities do schools have for student conduct?

Code of Virginia §22.1-253.13:7 requires that school boards assemble and maintain policies which provide effective learning environments, stipulating that “[t]he standards of student conduct and attendance and enforcement procedures designed to provide that public education be conducted in an atmosphere free of disruption and threat to persons or property and supportive of individual rights.”

Section 22.1-78 of the *Code* authorizes local school boards to adopt by-laws and regulations “for its own government, for the management of its official business and for the supervision of schools, including but not limited to the proper discipline of students, including their conduct going to and returning from school.”

Section 22.1-279.6.B of the *Code* requires local school boards to adopt and revise regulations on codes of student conduct that are consistent with, but may be more stringent than, the guidelines of the Board. School boards are required to include procedures for suspension, expulsion, and exclusion decisions, to biennially review student conduct code guidelines, and to include prohibitions against hazing and profane or obscene language or conduct. School boards are authorized to regulate certain communications devices and, at their discretion, require or encourage drug testing.

Section 22.1-279.9 of the *Code* requires school boards, in cooperation with the local law enforcement agencies, juvenile and domestic relations court judges and personnel, parents, and the community-at-large, to develop programs to prevent violence and crime on school property and at school-sponsored events.



Key resource documents related to student conduct are:

- Virginia Board of Education *Student Conduct Policy Guideline*
www.doe.virginia.gov/boe/guidance/safety/student_conduct.pdf
- *Parents Guide to Understanding Student Discipline Policies*
www.doe.virginia.gov/support/student_conduct/parents_guide_student_discipline_policies.pdf

What are the Virginia Tiered Systems of Support?

The Virginia Tiered Systems of Supports (VTSS) is a data-driven decision making framework for establishing the academic, behavioral and social-emotional supports needed for a school to be an effective learning environment for all students. The VTSS systemic approach allows divisions, schools and communities to provide multiple levels of supports to students in a more effective and efficient, clearly defined process. Implementing the VTSS requires the use of evidence-based, system-wide practices with fidelity to provide a quick response to academic, behavioral, social and emotional needs. The practices are progress-monitored frequently to enable educators to make sound, data-based instructional decisions for students. More information is available at www.doe.virginia.gov/support/virginia_tiered_system_supports/index.shtml

What are Positive Behavioral Interventions and Supports?

Positive Behavioral Interventions and Supports (PBIS) is a nationally-recognized approach to support positive academic and behavioral outcomes for all students. In Virginia schools, PBIS is the behavioral component of the Virginia Tiered Systems of Supports (VTSS). PBIS helps teachers and administrators learn about and implement new techniques that reduce disruptive student behavior, which typically leads to office referrals, in school

suspensions, and out-of-school suspensions that decrease instructional time for students. Based on extensive research, PBIS utilizes a positive approach to discipline. PBIS is not a specific intervention or curriculum. Through focused attention on data collection and analyses, PBIS provides a framework of proactive, evidence-based prevention and intervention behavioral strategies that aid schools in defining, teaching, and supporting appropriate student behaviors in a positive school culture.

The Virginia Department of Education provides an overview and links on PBIS at: www.doe.virginia.gov/support/virginia_tiered_system_supports/positive_behavior/index.shtml.

What are discipline procedures when the student is in special education?

Requirements related to students with disabilities are contained under “8VAC20-81-160. Discipline procedures.” The Department of Education has guidance and resources on this topic: www.doe.virginia.gov/special_ed/index.shtml.

In addition, refer to the Virginia Department of Education’s *Guidance Document on the Implementation of the Regulations Governing Special Education Programs for Children with Disabilities in Virginia, 2009* at www.doe.virginia.gov/special_ed/regulations/state/regs_speced_disability_va_guidance.pdf.

Can a student be spanked at school for misbehaving?

No. The *Code of Virginia* §22.1-279.1 states, “No teacher, principal or other person employed by a school board or employed in a school operated by the Commonwealth shall subject a student to corporal punishment.” Corporal punishment means inflicting physical pain on a student as a means of discipline.

It is important to understand that the law against corporal punishment does not prevent:

- the use of incidental, minor, or reasonable physical contact or other actions designed to maintain order and control;
- use of reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance which threatens physical injury to persons or damage to property;
- the use of reasonable and necessary force to prevent a student from inflicting physical harm on himself;
- the use of reasonable and necessary force for self-defense or the defense of others; or
- the use of reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances or paraphernalia which are upon the person of the student or within his or her control.

The definition of corporal punishment does not include physical pain, injury, or discomfort caused by participation in practice or competition in an interscholastic sport, or participation in physical education or an extracurricular activity.

Under what circumstances can a teacher remove a student from a classroom?

Code of Virginia §22.1-276.2 gives teachers the authority to remove a student from a classroom for disruptive behavior in accordance with local school board policy. Disruptive behavior is defined as “conduct that interrupts or obstructs the learning environment.” When a student is removed from class, parents will be offered the opportunity to meet with the teacher and school administrators to address problems and prevent it from happening again.

Which offenses can result in expulsion?

School boards may consider expelling students who commit two types of offenses:

- bringing to school firearms or other destructive devices defined in the federal Gun-Free Schools Act of 1994 (*Code of Virginia* §22.1-277.07); and
- bringing drugs, imitation drugs, or marijuana onto school property or to a school-sponsored event (*Code of Virginia* §22.1-277.08).

Expulsions for other types of offenses are required to be based on consideration of the following:

- the nature and seriousness of the violation;
- the degree of danger to the school community;
- the student's disciplinary history;
- 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;
- the student's attendance and academic records; and
- such other matters as deemed to be appropriate.

A school board, in accordance with *Code of Virginia* §§ 22.1-277.07 and 22.1-277.08, may determine, based on the facts of a particular case, that special circumstances exist and another disciplinary action is appropriate.

What action can a school take when a student violates student conduct policy but claims he acted in self-defense?

According to Virginia Board of Education *Student Conduct Policy Guidelines*,

“A code of student conduct may, but is not required to, address consideration of self-defense as a factor in determining appropriate disciplinary action. Procedures for such consideration should include an opportunity for the student(s) to present the student's version of what occurred, as well as a review of facts, involving school personnel and others as appropriate. The fact-seeking process may include students and other staff who may have witnessed the incident or have observed previous interactions between the students involved. In cases where self-defense is claimed, there may be a “history” between the students that often takes the investigation beyond looking at the single incident to examining patterns of interaction, past threats, and bullying. Persons from whom information is obtained could include a bus driver, other students, and parents.

School boards developing disciplinary policies including self-defense should provide criteria that define when an incident would be considered an act of self-defense. Based on the criteria used in the judicial system for a claim of self-defense to apply, the following conditions should be met. The person claiming self-defense must:

- be without fault in provoking or bringing on the fight or incident;
- have reasonably feared, under the circumstances as they appeared to him, that he was in danger of harm; and
- have used no more force than was reasonably necessary to protect him from the threatened harm.

A school board's policy addressing self-defense should retain a prohibition from bringing weapons of any kind to school for the purpose of self-defense and explicitly state that self-defense does not constitute a valid defense against possession or use of a weapon on school property or at any school-sponsored activity.”

B. Parental Responsibilities Related to School

What responsibilities do parents have related to school?

Code of Virginia §22.1-279.3 sets forth the duty of each parent of a student enrolled in a public school to assist the school in enforcing the standards of student conduct and compulsory school attendance. Procedures are set forth for notifying parents of their responsibilities, documenting the notification, and taking steps against parents for willful and unreasonable refusal to participate in efforts to improve their child's behavior or school attendance. Each parent of a student must sign a statement acknowledging the receipt of the school board's standards of student conduct and return it to the school.

Code of Virginia §22.1-3.2.A and B requires a parent or guardian to provide a public school, upon registration of a student, information concerning criminal convictions or delinquency adjudications for any offense listed in subsection G of Section 16.1-260. These include homicide, felonious assault and bodily wounding, criminal sexual assault, manufacture, sale, or distribution of Schedule I or II controlled substances or marijuana, arson, burglary and robbery, prohibited street gang activity, and recruitment for street gang activity. When the school registration results from foster care placement, the information is to be furnished by the local social services agency or licensed child-placing agency that made the foster care placement.

C. Child Abuse Reporting

What is considered child abuse or neglect?

Code of Virginia §63.2-100 defines an abused or neglected child as any child under 18 years of age whose parent or any person responsible for his or her care (such as a child care provider, foster parent, or anyone responsible for the welfare of a child receiving residential care at an institution):

- causes or threatens to cause a non-accidental physical or mental injury;
- has a child present during the manufacture or attempted manufacture of a Schedule I or II controlled substance or during the unlawful sale of such substance where such activity would constitute a felony violation;
- neglects or refuses to provide adequate food, clothing, shelter, emotional nurturing, or health care;
- abandons the child;
- neglects or refuses to provide adequate supervision in relation to a child's age and level of development;
- knowingly leaves a child alone in the same dwelling with a person, not related by blood or marriage, who has been convicted of an offense against a minor for which registration is required as a violent sexual offender; or
- commits or allows to be committed any illegal sexual act upon a child, including incest, rape, indecent exposure, prostitution, or allows a child to be used in any sexually explicit visual material.

In addition, newborn infants who have been medically diagnosed for exposure to nonprescription, controlled substances during pregnancy are also considered to be at risk of abuse or neglect. Attending physicians are required to report these children.

What responsibilities do schools have for reporting suspected child abuse or neglect?

Code of Virginia §63.2-1509 requires any teacher or other person employed in a public or private school, kindergarten, or nursery school who, in their professional or official capacity, has reason to suspect that a child is an abused or neglected child to report the matter immediately to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or to the Department of Social Service's toll-free child abuse and neglect hotline.

What protections do school personnel have from being sued by a parent for reporting child abuse or neglect?

Code of Virginia §63.2-1512 states that any person making such a report shall be immune from any civil or criminal liability in connection with the reporting unless it can be proven that the person acted in bad faith or with malicious intent.



The Virginia Department of Social Services publication *A Guide for Mandated Reporters in Recognizing and Reporting Child Abuse and Neglect* is available at:

www.dss.virginia.gov/files/division/dfs/mandated_reporters/cps/resources_guidance/B032-02-0280-00-eng.pdf.

D. Student Records and Information Sharing

What responsibilities do schools have for student scholastic records?

State law requires that every student's scholastic record be made available to the student and his parent, guardian, or other person having control or charge of the student for inspection during the regular school day. Permission of the parent, guardian, or other person having control or charge of the student, or of a student who is 18 years of age or older, is required for the transfer of a scholastic record to another school or school division. Consistent with federal law and regulation, every school is required to annually notify parents of students of their rights under the federal Family Educational Rights and Privacy Act (FERPA) and related regulations.

- *Code of Virginia* §22.1-287 sets forth limitations on access to records.
- *Code of Virginia* §22.1-287.1 defines what constitutes "directory" information that may be disclosed.
- *Code of Virginia* §22.1-288 defines conditions for furnishing information to other schools, colleges or private businesses.
- *Code of Virginia* §22.1-289 sets forth conditions and methods for the transfer and management of scholastic records.
- *Code of Virginia* §22.1-288.1 requires the notation in records of missing children and documentation of cooperation with law enforcement.
- *Code of Virginia* §22.1-288.2 defines conditions for the receipt, dissemination, and maintenance of records of certain law-enforcement information.

What information can schools share with the school resource officer?

FERPA limits access to student records. It does **not** prohibit a school official from disclosing information about a student if the information is obtained through the school official's personal knowledge or observation, and not from the student's education records. For example, if a teacher overhears a student making threatening remarks to other students, *FERPA* does not protect that information, and the teacher may disclose what he or she overheard to appropriate authorities.



For additional guidance, see the U.S. Department of Education's "*Balancing Student Privacy and School Safety: A Guide to the Family Educational Rights and Privacy Act for Elementary and Secondary Schools*," (October 2007) available at: www2.ed.gov/policy/gen/guid/fpco/brochures/elsec.html.

What acts of students are required to be reported to the school division superintendent?

Juvenile intake officers are required to notify a school superintendent of the filing of a petition against a juvenile in cases involving offenses set forth in *Code of Virginia* §16.1-260.

Law enforcement officers are required to report the arrest of school employees and adult students for certain offenses under *Code of Virginia* §19.2-83.1. The offenses set forth in both sections are:

- firearm offense;
- homicide;
- felonious assault and bodily wounding;
- criminal sexual assault;
- manufacture, sale, gift, distribution, or possession of Schedule I or II controlled substances;
- manufacture, sale, or distribution of marijuana;
- arson and related crimes;
- burglary and related offenses;
- robbery;
- prohibited street gang participation; and
- recruitment of juveniles for criminal street gang.

In the case of juveniles, superintendents may not disclose information about the filing of a petition except if the division superintendent believes that disclosure to school personnel is necessary to ensure the physical safety of the juvenile, other students, or school personnel within the division, he may at any time prior to receipt of the notice of disposition in accordance with *Code of Virginia* §16.1-305.1 disclose the fact of the filing of the petition and the nature of the offense to the principal of the school in which the juvenile who is the subject of the petition is enrolled.

The principal may further disseminate the information, after the juvenile has been taken into custody, whether or not the child has been released, only to those students and school personnel having direct contact with the juvenile and need of the information to ensure physical safety, the appropriate educational placement or other educational services.

In cases involving employees and adult students, the arrest is a matter of public record and should be handled in accordance with established personnel and student conduct policies.

Code of Virginia §22.1-288.2 provides additional guidance on the receipt, dissemination, and maintenance of records of certain law-enforcement information.

It is important to note that every notice of adjudication of delinquency or conviction received by the superintendent is not a disciplinary record as defined in Board of Education regulations, but must be maintained separately from all other records concerning the student. However, if the school administrators or the school board takes disciplinary action against a student based upon an incident which formed the basis for the adjudication of delinquency or conviction for an offense listed in subsection G of *Code of Virginia* §16.1-260, notice shall become a part of the student's disciplinary record.

Can education plans and behavioral assessments be used as evidence in a criminal proceeding?

A minor who commits the equivalent of a misdemeanor offense on school property or a school bus may introduce certain education-related documents as evidence. These documents, relating to educational plans or behavioral assessments, may be used to demonstrate intent. There are other guidelines governing use of these education records as evidence. A judge or magistrate will make determinations on the evidentiary utility of such documents as part of a trial. This legislation can be found in *Code of Virginia* §16.1-274.2, which was enacted in July 2016.

When transferring records to another school, what information is to be included?

Under *FERPA*, school officials may disclose any and all education records, including disciplinary records and records that were created as a result of a student receiving special education services under Part B of the *Individuals with Disabilities Education Act*, to another school or postsecondary institution at which the student seeks or intends to enroll. While parental consent is not required for transferring education records, the school's annual *FERPA* notification should indicate that such disclosures are made.

E. Student Victims

Who are victims?

Code of Virginia §19.2-11.01, Virginia's Victims Bill of Rights, recognizes victims as anyone who has suffered physical, emotional, or financial harms, or has been harmed by certain delinquent acts. The certain delinquent acts are: 1) assault and battery in violation of §18.2-57 or §18.2-57.2; 2) stalking in violation of §18.2-60.3; 3) a violation of a protective order in violation of §16.1-253.2 or §18.2-60.4; 4) sexual battery in violation of §18.2-67.4; 5) attempted sexual battery in violation of §18.2-67.5; or 6) maiming or driving while intoxicated in violation of §18.2-51.4 or §18.2-266. When the victim is a minor, the definition of victim includes his or her parents or guardians.

What are victims' rights?

Virginia law contains a Crime Victim and Witness Rights Act, usually referred to as the Victims Bill of Rights.

The Victims Bill of Rights is intended to ensure that crime victims:

- have opportunities to make the courts aware of the full impact of crime;
- are treated with dignity, respect, and sensitivity and have their privacy protected;
- are informed of their rights;
- are protected by law enforcement and the criminal justice system;
- potentially receive compensation, financial or otherwise;
- receive authorized services; and
- are heard at all critical stages of the criminal justice process.

How can I find out about victim or witness services in my community?

The law enforcement agencies investigating a crime will give victims written information about their rights, including the telephone numbers of the Commonwealth's Attorney and other numbers to call for additional information or to receive services. They may also call the statewide toll-free Virginia Crime Victim Assistance INFO-LINE at 1-888-887-3418.

Victim/witness programs are available to provide information and assistance. It is important that victims and witnesses contact the program to learn about the different types of assistance available to them. For example, a victim who wants to receive notice of court dates or notice when an offender is released from jail must make sure the Commonwealth's Attorney and other agencies have accurate contact information.

Which specific rights do victims have?

The specific rights victims have depend on case circumstances. Examples of some rights victims most often choose to exercise are: being notified of court dates, remaining in the courtroom during hearings, and giving victim impact statements at sentencing hearings.

Victims may ask to be notified of court dates, including preliminary hearings, plea agreement hearings, trials, and sentencing hearings.

Victims have the right to remain in the courtroom during all court proceedings the defendant attends, unless the judge has determined the presence of the victim would impair the conduct of a fair trial. Examples of these court proceedings are: bail or bond hearings, preliminary hearings, trials, and sentencing hearings. Additionally, if the victim is less than 18 years of age, the court may permit an adult chosen by the victim to remain in the courtroom as a support person for the victim.

After a defendant is found guilty in circuit court, the judge may consider a victim impact statement in determining the offender's sentence. The victim impact statement gives the victim the opportunity to tell the court, in writing, the impact of the crime(s). Victims may also be given the opportunity to testify, at the sentencing hearing, regarding the impact of the crime(s). If the victim or witness cannot speak English or is hearing impaired, a court-approved interpreter may be appointed to assist during the criminal justice process, at no cost to the victim. If a victim or witness is worried about having to wait in an area near the defendant or defense witnesses, a separate waiting area for victims and witnesses may be provided.

In some cases, victims may receive financial assistance. Under certain circumstances, the defendant may be ordered to repay the victim, at least partially, for losses. This is called restitution. If the victim was injured during the crime, the victim or his or her surviving family members may be eligible to receive money from a victims' compensation fund. Witnesses traveling from out of town may be eligible for reimbursement of expenses related to each day's attendance in court. Crime victims may also bring civil lawsuits against perpetrators or other responsible parties to hold them accountable for harm suffered.

These are not all the rights of victims and witnesses. In all cases, ask the victim/witness program staff or the Commonwealth's Attorney's office for information on specific procedures and services available in your locality.

What is a victim impact statement?

Virginia law allows victims to submit a written statement that describes the impact of crimes on the victim and his or her family. These statements may be considered by the court in deciding a sentence.

The victim impact statement may contain information about:

- physical injuries and medical treatment received;
- psychological effects of the crime and treatment received;
- life changes as a result of the crime, including personal welfare, lifestyle, or family relationships; and
- economic losses.

What resources are available for students who are victims of crime?

Code of Virginia §22.1-3.3 allows the transfer of students who were the victims of any crime against the person committed by:

- another student who attends classes in the same school;
- any employee of the local school board; or
- any volunteer, contract worker, or other person who regularly works in the school.

A student may transfer also if the crime was committed upon school property or on any school bus owned or operated by the school division. The transfer must be to another comparable school within the school division if available. Such transfer is to occur only when requested by a parent or the student, if emancipated, when the student would suffer physical or psychological harm.

F. Other Issues

What limits can schools place on students' freedom of speech/expression?

Freedom of speech/expression issues most frequently arise in connection with student newspapers and dress codes.

Within the school environment, there is a tension between freedom of speech and the need for schools to limit student behavior in order to preserve an environment conducive to learning. *Tinker v. Des Moines Independent School District*, 393 U.S. 503 (1969), was the landmark case that set the standards on which student free speech cases are judged. The U.S. Supreme Court held that students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” However, student conduct that “materially disrupts classwork or involves substantial disorder or invasion of the rights of other is... not immunized by the constitutional guarantee of freedom of speech.” Thus, the schools can prescribe speech/ expression that constitutes a “material and substantial disruption.”

There are numerous issues to be considered in prescribing student speech/expression.

Is prayer allowed in public schools in Virginia?

Code of Virginia §22.1-203.2 requires the Virginia Board of Education, in consultation with the Office of the Attorney General, to develop guidelines on constitutional rights and restrictions relating to prayer and other religious expression in the public schools.

According to Virginia Board of Education *Guidelines Concerning Religious Activity in Public Schools*, “It is firmly settled in the law that the Establishment Clause forbids school-sponsored prayer or religious indoctrination, as well as any school initiative designed to endorse prayer generally or sponsor a particular religious viewpoint.” However, there are circumstances under which student prayer and other religious activities are permissible. There are numerous issues related to religious activities in schools.

RESOURCES

For additional information, see Virginia Board of Education *Guidelines Concerning Religious Activity in the Public Schools* available at: www.doe.virginia.gov/boe/guidance/support/religious_activity.pdf.

Can schools require students to wear uniforms?

Code of Virginia §22.1-79.2 requires the Virginia Board of Education to develop model guidelines for local school boards to utilize when establishing requirements for pupils to wear uniforms.

Local school boards **may**, but are not required to, establish requirements for school uniforms consistent with the Board guidelines.

RESOURCES

For additional information, see Virginia Board of Education *Model Guidelines for the Wearing of Uniforms in Public Schools* available at: www.doe.virginia.gov/boe/guidance/administration_governance/model_guidelines_uniforms.pdf.

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VII. COMMUNITY RESOURCES

Throughout the *Code of Virginia* there are requirements for schools to communicate or collaborate with local agencies that have legal responsibilities for protecting or serving children and families. Listed below are brief descriptions of key state and local agencies that schools are required by law to notify or work with in some way.

<p>Virginia Center for School and Campus Safety Virginia Department of Criminal Justice Services www.dcjs.virginia.gov</p> <p>School Safety Audits and School Crisis Plan Certification School Safety Training School Resource Officer Training School Security Officer Certification Program</p>
<p>Virginia Office of the Attorney General www.ag.virginia.gov</p> <p><i>Virginia Rules</i> Curriculum Legal Resources in Virginia</p>
<p>Virginia Department of Social Services www.dss.virginia.gov</p> <p>Reports of suspected child abuse or neglect Reports of non-attendance of children in families receiving public assistance</p>
<p>VA Department of Behavioral Health & Developmental Services www.dbhds.virginia.gov</p> <p>Directory of Virginia's 40 community services boards Mental Health emergency/crisis resources</p>
<p>Virginia Department of Juvenile Justice www.djj.virginia.gov</p> <p>Directory of local Juvenile court services units Information on juvenile justice</p>

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VIII. RELATED TERMS

NOTE REGARDING JUVENILE JUSTICE

There are important differences between proceedings against adults and those against juveniles.

- Persons under 18 years of age (other than those transferred for trial as adults) are “adjudicated delinquent of offenses that would be crimes if committed by adults” rather than found guilty of felonies or misdemeanors.
- Students over 18 years of age, however, are tried as adults and, if found guilty, convicted of felonies or misdemeanors.

Abused Child: *Code of Virginia §16.1-228* defines an “abused or neglected child” as one:

- Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by the child’s parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of 18.2-248;
- Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child;
- Whose parents or other person responsible for his care abandons such child;
- Whose parents or other person responsible for his care commits or allows to be committed any sexual act upon a child in violation of the law;
- Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child’s parent, guardian, legal custodian or other person standing in loco parentis; or
- Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in §55-79.2, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a violent sexual offender pursuant to §9.1-902.

Adjudicate: To make a judicial determination about an issue before the court.

Adjudicatory Hearing: In juvenile justice usage, it is the fact-finding process by which the juvenile court determines whether or not sufficient evidence exists to sustain the allegations in a petition. It occurs after the petition has been filed and after a detention hearing has been held.

Adult: A person who is 18 years of age or older, who is within the original jurisdiction of a criminal court rather than a juvenile court because his or her age at the time of an alleged criminal act was above a statutorily specified limit. A juvenile court may waive jurisdiction and transfer a juvenile to a criminal court for prosecution as an adult.

Alcohol: Any drink that has at least .5% alcoholic content.

Alleged: Claimed; asserted; charged.

Amend: To change.

Appeal: Taking a case which has been decided in a court of inferior jurisdiction to one of superior jurisdiction, for the purpose of obtaining a review.

Appellate Court: A court that reviews the decision of an inferior court or governmental agency. Appellate courts do not try cases, or have juries or witnesses. They review questions of law or allegations of procedural error arising in the trial court.

Arson: To unlawfully and intentionally damage, or attempt to damage, any real or personal property by fire or incendiary device.

Assault: (1) Acting in a manner that causes physical injury (criminal); (2) The willful attempt or threat to unlawfully touch or hurt another (civil); unlawful or intentional infliction of bodily injury or just an attempt or threat of bodily injury is an assault. Any threatening act that puts another person in reasonable fear of physical injury. Words alone are not an assault. If the fear of physical injury is unreasonable, the conduct is not an assault. *Virginia Model Jury Instructions*, Instruction 36.000, 1993 Civil Edition.]

Attorney: An individual who has studied law, has passed a test to be admitted to practice law, and is licensed to practice law in accordance with state regulations. Attorneys are often referred to as lawyers.

Attorney General: The chief law officer of the executive branch of a state or the federal government.

Authority (Local, State, Federal): Each unit of government is empowered to perform its responsibilities to the public by local ordinances, state statutes, and federal laws. Ordinances are laws created by local units of government that apply to school divisions, persons, and institutions within a town, city, or county. Statutes are enacted by the General Assembly and apply to persons and institutions on a statewide basis. Federal statutes and regulations are national laws enacted by Congress which apply to persons and educational institutions located in every state.

Bail: A sum of money exchanged for the release of an arrested person as a guarantee of that person's appearance for trial.

Bail/Bond: An amount of money or property sometimes required by a judge or magistrate to be paid to the court by the defendant to insure that he or she will appear for trial. If he or she does not appear, the money may be forfeited to the court.

Bail Hearing: A hearing in which a judicial officer (judge, magistrate, or clerk of court) determines whether a defendant should be released from custody pending trial. The judicial officer also determines the terms and the conditions of release.

Bailiff: A person responsible for keeping order in a courtroom. In Virginia, bailiffs are usually deputy sheriffs.

Battery: An actual, intentional physical contact without the victim's permission is a battery. A battery is a touching, however slight, of another person in a rude, insulting, or angry way; the actual physical, harmful contact associated with an assault.

Boundaries (School Grounds and School Property): All real and personal property with a title of ownership vested in the school board or a city that is necessary to use for school purposes is school property. School property includes (but is not limited to) school buildings, surrounding land, parking lots, school buses (*Code of Virginia* §18.2-128), land outside of corporate city limits that is not adjacent to the school building and has been designated for school purposes (*Code of Virginia* §22.1-125) [desks, lockers, textbooks, library books, computers, etc.]

Bribery: Offering, giving, receiving, or soliciting anything of value to sway the judgment or action of a person in a position of trust or influence.

Bullying: Bullying is any aggressive and unwanted behavior that is intended to harm, intimidate, or humiliate the victim. Bullying involves a real or perceived power imbalance between the aggressor or aggressors and victim, and is repeated over time or causes severe emotional trauma. Bullying includes cyberbullying. Bullying does not include ordinary teasing, horseplay, argument, or peer conflict. Each school board is to implement policies that fit within the definition of bullying as defined by Code of Virginia §22.1-276.01.

Burglary: The unlawful entry into a building or other structure with the intent to commit a felony or a theft. A “structure” is considered to include, but not be limited to, any building, railroad car, garage, house-trailer or houseboat (if used as permanent dwelling), room, barn, stable, mill, and ship.

Capias: A document issued by the court for the arrest of a person; issued in case of contempt, or where an indictment has been issued, or to bring in a witness who does not obey the subpoena.

Capital Crime: A murder that can be punishable by a sentence of death.

Capital Offenses: Offenses for which the penalty can be a death sentence. Examples of capital offenses include, but are not limited to, contract murder, murder of a law enforcement officer, murder by a prisoner, multiple killings, murder arising from a drug crime, and killing a child younger than 12 years of age.

Case Law: The principles and rules of law that courts establish when they interpret laws.

Child in Need of Services (CHINS): According to Code of Virginia §16.1-228, “child in need of services” means:

(i) a child whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of the child or (ii) a child under the age of 14 whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of another person; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be a child in need of services, nor shall any child who habitually remains away from or habitually deserts or abandons his family as a result of what the court or the local child protective services unit determines to be incidents of physical, emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

“However, to find that a child falls within these provisions, (i) the conduct complained of must present a clear and substantial danger to the child’s life or health or to the life or health of another person, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.”

Child in Need of Supervision (CHINSup): According to Code of Virginia §16.1-228, “Child in need of supervision” means:

- “A child who, while subject to compulsory school attendance, is habitually and without justification absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of any and all educational services and programs that are required to be provided by law and which meet the child’s particular educational needs, (ii) the school system from which the child is absent or other appropriate agency has made a reasonable effort to effect the child’s regular attendance without success, and (iii) the school system has provided documentation that it has complied with the provisions of Code of Virginia §22.1-258; or
- A child who, without reasonable cause and without the consent of his parent, lawful custodian or placement authority, remains away from or deserts or abandons his family or lawful custodian on more than one occasion or escapes or remains away without proper authority from a residential care facility in which he has been placed by the court, and (i) such conduct presents a clear and substantial danger

to the child's life or health, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.”

Child Protective Services: Local social service agencies under the Virginia Department of Social Services that offer assistance including investigating child abuse and neglect cases and developing strategies to prevent child abuse and neglect.

Circuit Court: A trial court that has exclusive jurisdiction in all civil matters greater than \$10,000 and all felony prosecutions in criminal matters.

Civil Case: A lawsuit involving enforcement of private rights, such as fraud or defamation, as opposed to a criminal case that is brought by the government to punish a wrong against society.

Civil Law: Laws that define the rights and duties of one individual to another.

Civil Liability: Legal duty or responsibility for private acts which arise under municipal law as opposed to criminal law.

Clerk of Court: The person responsible for keeping a court's official records. Clerks of court for Circuit Courts are elected by the voters of their city or county.

Code of Virginia: The official record of laws enacted by the Virginia General Assembly and signed by the Governor. These laws apply to all persons in the Commonwealth of Virginia.

Common Law: The system of laws, originated and developed in England, based on court decisions rather than codified written laws. The rule that you are “presumed innocent until proven guilty beyond a reasonable doubt” is an example of common law.

Commonwealth's Attorney: Also known as the prosecutor; a lawyer elected by the people to prosecute criminal and traffic cases; lawyer for the Commonwealth who represents the interests of the general public; an attorney who represents the Commonwealth of Virginia in criminal cases by presenting evidence to prove that a defendant is guilty. In Virginia, Commonwealth's Attorneys are elected by the voters in the city or county.

Compulsory Attendance: The *Code of Virginia §22.1-254* contains a mandatory requirement that every parent, guardian, or other person in the Commonwealth having control or charge of any child who will have reached the fifth birthday on or before September 30 of any school year and who has not passed their eighteenth birthday shall, during the period of each year the public schools are in session and for the same number of days and hours per day as the public schools, send such child to a public school or to a private, denominational or parochial school or have such child taught by a tutor or teacher of qualifications prescribed by the Board of Education and approved by the division superintendent, or provide for home instruction of such child as described in *Code of Virginia §22.1-254.1*.

Constitutional Law: Laws that originate in the United States Constitution and the Constitution of Virginia. Constitutions establish the structure of our federal and state governments and set forth the rights of the governed.

Continuance: Postponing of a case until a later date upon request by either party or the court.

Continuum of Care: A level of service provided by juvenile courts for non-delinquent and adjudicated youth under the court's jurisdiction. It identifies behavior associated with future delinquency by starting with the most restrictive level of service, including in-home suspension, counseling, and electronic monitoring.

Contract: An agreement with specific terms between two or more persons or entities in which there is a promise to do something in return for a valuable benefit known as “consideration.”

Controlled Substances: Substances to which the government restricts access because of the substances' potential for harm or abuse.

Convict: To find a person guilty of a criminal charge.

Conviction: Court's judgment finding the defendant guilty of a crime.

Copyright Act (U.S.): A federal law that protects all music, film, literary, and other creative industries against the illegal downloading, recreation, and sharing their media without consent.

Corporal Punishment: The infliction or causing the infliction of physical pain on a student as a means of discipline through the use of unreasonable or unnecessary force.

Counterfeiting: The altering, copying, or imitation of something, without authority or right, with the intent to deceive or defraud by passing the copy or thing altered or imitated as that which is original or genuine; the selling, buying, or possession of an altered, copied, or imitated thing with the intent to deceive or defraud.

Courts: The part of the judicial branch of government responsible for interpreting laws when a law is broken or there is a dispute.

Crime: An act that violates a law either by doing something the law says you are not to do, or by not doing something the law says you have to do.

Crimes Against Persons: Offenses that involve direct physical harm or force being applied to another person.

Crimes Against Property: Offenses that involve property, including crimes in which property is destroyed and crimes in which property is stolen or taken against the owner's will.

Criminal Case: A case in which the government is prosecuting a defendant accused of committing a criminal act.

Criminal Law: Laws that define behavior that is considered to be illegal, such as stealing, and the punishments that can be imposed. Criminal law provides a set of rules for peaceful, safe, and orderly living.

Curfew: A law, usually a local ordinance, restricting the time when a young person is no longer allowed to be out on the street without lawful business.

Custody: "Legal custody" means (i) a legal status created by court order which vests in a custodian the right to have physical custody of the child, to determine and redetermine where and with whom he shall live, the right and duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal status created by court order of joint custody as defined in *Code of Virginia §20-107.2*; the care and control of a thing or person.

Custody Case: In Juvenile and Domestic Relations District Court or Circuit Court, the type of proceedings in which the court determines which parent, other adult, or agency shall have physical and legal control over a child.

Cyberbullying: The use of technology (e-mail, instant messaging, web sites, cell phones, etc.) to harass or annoy another person. Cyberbullying is a form of harassing communication and is a Class 1 misdemeanor.

Defamation: Defamation means harm to one's reputation. Two examples of defamation are libel and slander. Libel is a written communication, such as a newspaper article, that is false and damages a person's reputation. Slander is a spoken communication that is false and damages a person's reputation.

Defendant: Person who is charged with a crime. In a criminal case, the person who is accused of committing a crime; in a civil case, the person who is being sued by another party (called a plaintiff) who alleges the defendant has injured or harmed him or her in some way.

Defense Counsel: Lawyer for the defendant.

Degree: Legal extent of guilt or negligence.

Delinquent: “Delinquent child” means a child who has committed a delinquent act, except where the jurisdiction of the juvenile court has been terminated under the provisions of *Code of Virginia* §16.1-269.6. “Delinquent act” means (i) an act designated a crime under the law of this Commonwealth, or an ordinance of any city, county, town or service district, or under federal law, (ii) a violation of *Code of Virginia* §18.2-308.7 or (iii) a violation of a court order as provided for in *Code of Virginia* §16.1-292, but shall not include an act other than a violation of *Code of Virginia* §18.2-308.7, which is otherwise lawful, but is designated a crime only if committed by a child. For purposes of *Code of Virginia* §16.1-241 and §16.1-278.9, the term shall include a refusal to take a blood or breath test in violation of *Code of Virginia* §18.2-268.2 or a similar ordinance of any county, city, or town; a juvenile who has committed an act that would be a crime if committed by an adult.

Destruction of Property: To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

Detention: To physically restrain or confine an individual. In Virginia, a judge, intake officer, or magistrate may detain a juvenile for reasons prescribed by law. Detention is most often used to hold a juvenile pending a hearing. Juveniles are typically held in detention centers in Virginia.

Detention Center: Sometimes called detention homes, places in the community where delinquents are held temporarily in secure custody pending court hearings.

Dismissal: A finding of not guilty; or a refusal by the court to allow a case to continue to be prosecuted.

Disorderly Conduct: Disturbing the peace by making loud noises, by fighting, or by publicly using obscene language.

Disposition: The manner in which a case is settled or resolved.

Disposition Hearing: A hearing in juvenile court conducted after an adjudicatory hearing and subsequent to receipt of the report of any predisposition investigation, to determine the most appropriate form of custody and treatment for a juvenile who has been judged a delinquent, status offender, or who is a dependent. It is important to remember that the juvenile justice system is concerned not only with punishment, but also with rehabilitation.

Disruptive Behavior: Disruptive behavior means conduct that interrupts or obstructs the learning environment.

Domestic Relations: Refers to family relationships.

Domestic Violence: A pattern of physically, sexually, and/or emotionally abusive behaviors used by one individual to assert power or maintain control over another in the context of an intimate or family relationship.

Driving Under the Influence (DUI): Operating a motor vehicle while under the influence of alcohol or other drugs as determined by the amount of alcohol or drugs in that person’s blood.

Drug Paraphernalia: All equipment, products, and materials of any kind which are used for converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing a controlled substance into the human body.

Drug Trafficking: The possession of large quantities of illegal drugs, which indicates the intent to sell for profit, or the sale or distribution of illegal drugs.

Due Process of Law: The guarantee that citizens are treated fairly by the government. A guarantee of due process is written in the U.S. Constitution in the Fifth, Sixth, and Fourteenth Amendments.

Element of an Offense: Any conduct, circumstance, condition, or state of mind which in combination with other conduct, circumstances, conditions or states of mind constitutes an unlawful act.

Emancipation: When a minor legally gains control and responsibility over all decisions in his or her life, even though he or she is a minor.

Embezzlement: The unlawful taking of personal property with which one has been entrusted.

Evidence: Statements by witnesses, documents, and objects presented to the court which can be considered by the judge and/or jury in determining whether the defendant is guilty or not guilty.

Exclusion of Witnesses (Exclude): Removal of witnesses from the courtroom.

Expungement: A process by which a record, or a portion thereof, is officially erased or removed after the defendant is not convicted. Criminal record expungement requests are heard by Circuit Courts, and, under certain conditions, by the General District Court.

Extortion: Unlawfully obtaining or attempting to obtain something of value from another by compelling the other person to deliver it by the threat of eventual physical injury or other harm to that person or the person's property, or a third person. *Blackmail* is the common name for extortion where the threat is not physical but relates to exposing some secret, true, or alleged fact which would do harm to someone's circumstances or damage his or her reputation; obtaining property from another person by using or threatening to use violence or other criminal means to cause harm to person, reputation, or property.

Family or Household Member: Includes: spouse (regardless of whether you live together); ex-spouse (regardless of whether you live together); parents, children, stepparents and stepchildren, brothers and sisters, grandparents, grandchildren, and in-laws (if you live in the same house); cohabitants (those who live together) and those who cohabited in the past year and their children; and persons who have a child in common (even if you have never lived together).

Felony: A criminal offense which is more serious than a misdemeanor and which can carry harsher penalties including imprisonment of a term greater than one year. Juveniles are "adjudicated delinquent of offenses that would be crimes if committed by adults" rather than found guilty of felonies or misdemeanors; a crime punishable by death or confinement in the penitentiary. See *Code of Virginia* §18.2-10 for classification of felonies and the punishment for each classification.

FERPA: The Family Educational Rights and Privacy Act is a federal law designed to protect the privacy of student education records. It also gives parents and students who are 18 years of age and older or attending a post-secondary institution, the right to review the student's educational records and amend the record if the parent or student believes it is inaccurate, misleading, or in violation of the student's rights.

Forgery: The act of fraudulently making a false document or altering a real one to be used as if genuine.

Fraud: Intentionally telling someone something false or concealing the truth.

Fraud Offenses: The intentional perversion of the truth for the purpose of inducing another person or other entity in reliance upon it to part with something of value or to surrender a legal right. These offenses include false pretenses/swindling/confidence game, and credit card/automatic teller machine, impersonation, welfare, and wire frauds.

Gambling: To unlawfully bet or wager money or something else of value; assist, promote, or operate a game of chance for money or some other stake; possess or transmit wagering information; manufacture, sell, purchase, possess, or transport gambling equipment, devices, or goods; tamper with the outcome of a sporting event or contest to gain a gambling advantage.

Gambling Offenses: These offenses include betting/wagering, operating/promoting/assisting in a gambling enterprise, gambling equipment, and sports tampering violations.

Gang, Criminal Street: According to *Code of Virginia* §18.2-46.1, “any ongoing organization, association, or group of three or more persons, whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence, provided such acts were not part of a common act or transaction.”

Graduated Court Sanctions: The approach to delinquency and recidivism a juvenile court adopts that includes comprehensive prevention programs coupled with a series of progressively more intensive treatment and disposition alternatives.

Grand Jury: A special type of jury assembled to investigate whether criminal charges should be brought. Grand jury proceedings are supervised by Circuit Courts.

Harassment: To repeatedly annoy or attack a person or group in such a way as to cause anxiety or fear for safety. Several different types of harassment are against Virginia law.

Harassment, Sexual: Sexual harassment is a prohibited practice that includes sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- submission to such conduct is made explicitly or implicitly a term or condition of an individual’s employment or academic achievement;
- submission to or rejection of such conduct by an individual is used as a basis for employment or academic decisions affecting that individual; and/or
- such conduct has the purpose or effect of unreasonably interfering with an individual’s work or academic performance or creating an intimidating, hostile, or offensive work or learning environment. (*U.S. Equal Employment Opportunity Commission*)

Hate Crimes: (i) a criminal act committed against a person or his property with the specific intent of instilling fear or intimidation in the individual against whom the act is perpetrated because of race, religion or ethnic origin or that is committed for the purpose of restraining that person from exercising his rights under the Constitution or laws of this Commonwealth or of the United States, (ii) any illegal act directed against any persons or their property because of those persons’ race, religion or national origin, and (iii) all other incidents, as determined by law-enforcement authorities, intended to intimidate or harass any individual or group because of race, religion or national origin. (*Code of Virginia* §52-8.5)

Hazing: To recklessly or intentionally endanger the health or safety of a student or to inflict bodily injury on a student in connection with admission into a group.

Hearing: A court appearance before a judge or court referee where testimony is given and evidence is presented.

Hearsay: A statement based upon information heard from another person. It is generally not admissible as evidence in court, although there are exceptions to the rule.

Home Incarceration or Home Confinement: A sentencing option that enables an offender to serve a sentence at his or her place of residence. It is an alternative to prison that involves curfews, parole, or home detention with electronic monitoring.

Homicide: The killing of one human being by another.

Incarceration: Imprisonment; confinement in a jail or penitentiary.

Identity Theft: Using someone else’s information (such as Social Security Numbers, credit card numbers, and driver licenses) without his or her permission for an unlawful purpose.

Indictment: A formal written document presented by a grand jury which legally accuses a person of committing a crime.

Intake Officer: A member of the juvenile court staff who receives and reviews the juvenile's case and decides whether or not to file a petition for a hearing or divert the case from court. The intake officer is a youth's first point of contact with the juvenile court; in Virginia, an officer of a Juvenile and Domestic Relations District Court who receives and reviews complaints to the court and determines whether there are enough facts to involve the court. These officers are authorized to handle cases informally or may authorize filing a petition to bring the matter before the judge. They are also authorized to detain juveniles when necessary.

Intent: A state of mind in which a person seeks to achieve a given result through a course of action.

Intimidation: To make another person fearful of bodily harm using threatening words and/or other conduct..

Jail: A place of confinement for persons awaiting trial and for persons sentenced to shorter terms of confinement for misdemeanors.

Judge: The court official that oversees courtroom proceedings, listens to testimony presented in cases brought before the court, and rules according to the law.

Jury: A panel of 12 citizens (felony charge) or seven citizens (misdemeanor charge) who decide the guilt or innocence of a defendant and recommend a sentence; a group of citizens who listens to testimony, determines the facts, and applies the law. In a juvenile court, there is no jury; all decisions are made by the judge.

Juvenile or Minor: In Virginia, a person who is younger than 18 years of age.

Juvenile Correctional Center: A place where a juvenile committed to the Virginia Department of Juvenile Justice receives 24-hour supervision, education, treatment services, recreational services, and a variety of special programs.

Juvenile Court: A court having special jurisdiction over delinquent, dependent, or neglected children. In Virginia, this court is called a Juvenile and Domestic Relations District Court.

Juvenile Justice System: A special part of the larger justice system that deals with matters related to juveniles and has its own set of laws and procedures that govern how juveniles are treated.

Kidnapping/Abduction: The unlawful seizure, transportation, and/or detention of a person against his or her will or of a minor without the consent of his or her custodial parent(s) or legal guardian.

Knowingly: A state of mind that involves substantial certainty or knowledge and intelligence that a result or consequence will occur.

Larceny: The unlawful taking or carrying away of someone else's personal property with the intent to deprive the owner of it permanently.

Law: Rules and regulations created and enforced by the government.

Libel: Written or permanently recorded untruths causing harm to the person about whom the untruths are published.

Loitering: Remaining in a certain place for no reason.

Magistrate: A judicial officer who has the authority to set bail and to issue criminal charges based upon evidence presented by an individual or a law enforcement officer.

Malice: The intent to commit a wrongful act, without justification or excuse. Malice involves reckless disregard of the law or of a person's legal rights.

Malicious: Doing a wrongful act intentionally or as a result of ill will. Evidence of maliciousness can be shown by looking at a person's words or inferred by looking at the person's acts that necessarily result in injury. Ultimately, a judge or jury determines if the act involved malice.

Manslaughter: The reckless killing of another person. The killing of one human being by another which is not deliberate and premeditated. This crime may be intentional, but committed during a heated or passionate moment.

Material Witness: A witness who has firsthand knowledge about the facts of a case.

Menacing: Physical action that intentionally places or attempts to place another person in such a position that he or she fears imminent, serious physical injury.

Minor: A person under 18 years of age.

Minor in Possession of Alcohol: The illegal act of someone under the age of 21 possessing and/or transporting alcohol or drugs. It can also include knowingly being in the presence of drugs or alcohol in an area over which a minor has control, such as a backpack, locker, or car.

Miranda Warning: Rights read to a suspect at arrest. It states that you have a right to be informed of the reason for arrest, the right to remain silent, the right to contact an attorney, parent, or guardian, and the right to an appointed attorney if you cannot afford one.

Misdemeanor: An offense which is less serious than a felony and carries lesser penalties, ranging from a fine only to a maximum sentence of 12 months in jail. Juveniles are "adjudicated delinquent of offenses that would be crimes if committed by adults" rather than found guilty of felonies or misdemeanors; offenses punishable by fine not exceeding \$2,500 or by being jailed for a term not exceeding 12 months, or a combination of fine and jail within these limits.

Motion: Request by a defense attorney or prosecutor that the judge make a decision on a specific issue or point of law.

Motor Vehicle: Any vehicle that runs on its own power.

Motor Vehicle Theft: The theft of a motor vehicle, defined as a self-propelled vehicle that runs on the surface of land and not on rails, including automobiles, buses, recreation vehicles, trucks, and other motor vehicles such as motorcycles, motor scooters, trail bikes, mopeds, snowmobiles, and golf carts. Joyriding is included.

Murder: The intentional killing of another person without legal justification.

Neglected Child: See "abused child."

Negligence: A tort that occurs when a person fails to use reasonable care, which causes harm to a person or to his or her property.

Nolle Prosequi (nol pros): Prosecutor's decision with agreement by the court not to prosecute a case at the present time. The charge may be brought again.

Obscenity: A general term applying to anything that is immoral, indecent, or lewd.

Ordinance: A law passed by a city or county. In Virginia, city ordinances are enacted by City Councils and County Ordinances are enacted by County Boards of Supervisors. These laws apply just to persons in the particular city or county.

Parent's Liability: Parents are responsible for their children and for what their children do until those children are 18 years old or legally emancipated.

Parole: Conditional release from jail, prison, or other confinement after actually serving part of the sentence. It entitles a parolee to serve the remainder of the term outside of the confines of an institution, if he or she complies with all of the terms and conditions of the parole order; release from prison before the full sentence has been served, granted at the discretion of a parole board.

Pedestrian: A person who is traveling on foot.

Perjury: Intentionally providing false information under oath.

Perpetrator: Used to describe a person (usually unknown) who committed a criminal act.

Petition: To make a request of a court or public official. In a juvenile court, filing a delinquency petition means the same thing as filing charges in an adult court.

Petition, Filing of: Formally submitting to a court's record a document that alleges that a juvenile is delinquent, abused, or neglected, or a child in need of services, and asking that the court assume jurisdiction over the juvenile.

Phishing: Sending e-mail to a user falsely claiming to be a legitimate organization (examples: banks, eBay accounts, internet provider services, etc.) asking for the user's password, Social Security Number, bank account numbers, and credit card account numbers. This information is then used for the purposes of identity theft.

Plagiarism: The copying of someone else's work and representing it as your own.

Plaintiff: The party making a complaint. In a civil case, the plaintiff is the party who alleges he or she has been injured or harmed in some way.

Plea: Defendant's answer to a charge (guilty, not guilty, nolo contendere {no contest}).

Plea Agreement: An agreement in which a defendant pleads guilty in exchange for a prosecutor's recommendation for a particular sentence or particular charge. The judge must approve the agreement.

Policy: The general principles by which a government or unit of government is guided in its management of public affairs, or the legislature in its provisions.

Possession: Possession is not limited to ownership. It can also include knowingly being in the presence of or having control over an area containing an item.

Precedents: Court decisions on legal questions that guide future cases with similar questions.

Preliminary Hearing: Hearing held before a judge in a General District Court or Juvenile and Domestic Relations Court to determine if there is probable cause that the felony crime charged was committed by the defendant. If the judge finds probable cause, the case is certified to the grand jury for indictment and trial in Circuit Court.

Premeditated: Done with willful deliberation and planning; consciously considered beforehand.

Presentence Investigation/Report (PSI): Report prepared by a probation and parole officer to help the judge in deciding sentence. A victim impact statement may be included in the report.

Probable Cause: A set of facts and circumstances which would lead a reasonably intelligent and prudent person to believe that a particular person had committed a specific crime; having reasonable grounds or suspicion to make or believe an accusation. Probable cause is the standard required to justify a search by law enforcement officers; a reasonable ground for belief in the existence of facts warranting the proceedings complained of (e.g., probable cause to believe that a crime has been committed and that the person accused may have committed it).

Probation: A period of supervision by the court during which time an offender has the opportunity to show that he or she has learned from his or her mistakes and is required to obey rules of probation; in modern criminal administration, allowing a person convicted of some offense to remain free under a suspension of a jail sentence during good behavior and generally under the supervision or guardianship of a probation officer together with other restrictions the court may impose.

Probation (Supervised v. Unsupervised): *Supervised probation* is guidance, treatment, or regulation by a probation agency of the behavior of a person who is subject to adjudication or who has been convicted of an offense resulting from a formal court order or a probation agency decision. Contact between the agency and the client occurs on a regular basis. The average probation period is six months to a year. In *unsupervised probation*, contact occurs only when initiated by the client or other interested party outside the probation agency, and is not on a regular basis.

Probation and Parole Officer: A sworn officer of the court who is responsible for preparing Presentence Investigation Reports and providing supervision for offenders residing in the community.

Prosecutor: Another term for Commonwealth's Attorney, Assistant Commonwealth's Attorney or Deputy Commonwealth's Attorney; the lawyer who represents the government in a criminal case. In Virginia, prosecutors are called Commonwealth's Attorneys.

Protective Order: An order issued by judge or magistrate for the purpose of protecting a family/household member from abuse.

Public Place: A place to which the general public has a right to remain, not necessarily a place devoted solely to the uses of the public but a place that is accessible to the public and not private. It is a place in which the public has an interest in protecting the safety, health, welfare, and morals of the community.

Reasonable Suspicion: The degree of suspicion required is less than the degree that is necessary for probable cause, but reasonable suspicion will justify a brief stopping of a person for an investigation of pending, ongoing, or past criminal conduct. Reasonable suspicion is the standard necessary to justify a search by school officials; an objective basis, supported by specific facts, for suspecting a person of criminal activity.

Receiving Stolen Property: The criminal offense of knowingly acquiring or controlling property that has been stolen by another person.

Reckless: The state of mind accompanying an act, in which a person disregards the possibility of injury or harmful consequences and although the person foresees such consequences, he or she proceeds in spite of his or her awareness.

Recognizance: The release of an arrested person on a written promise that he/she will return to court.

Restitution: Money ordered by the court to be paid back to a victim by the defendant for loss incurred as a result of the crime; the act of restoration. It means that an offender is required to repay money to the victim or take other action to "restore" the victim to his status before the criminal act.

Robbery: Taking, with intent to steal, another's personal property, from his or her person or in his or her presence, against his will, by violence or intimidation.

Rule of Law: The principle which means that everyone, including government officials, must respect and obey the legal system and its laws.

Safe and Drug-Free Schools Act of 2001: Section IV of the Improving America's Schools Act of 2001. Authorizes funding to support school- and community-based drug and violence prevention efforts.

School Resource Officer (SRO): A School Resource Officer or SRO is a law-enforcement officer who works in local school divisions to ensure a school’s safety by serving as a law-enforcement officer within the school, teaching classes related to law enforcement, serving as a community resource, and as a role model for students. SROs are sometimes also referred to as Community Resource Officers (CROs), school liaison officers, youth safety officers, and other titles that may have been developed locally; a certified law-enforcement officer hired by the local law enforcement agency to provide law enforcement and security services to Virginia public elementary and secondary schools (*Code of Virginia* §9.1-101).

School Security Officer (SSO): A School Security Officer is an individual who is employed by the local school board for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies, and detaining students violating the law or school board policies on school property or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school (*Code of Virginia* §9.1-101).

Search and Seizure: *Search* is the examination or inspection of a location, (locker, desk, pockets, etc.), vehicle, or person by a law-enforcement officer or other person authorized to do so, for the purpose of locating objects relating to or believed to be related to criminal activity. *Seizure* is the taking into custody, by law-enforcement officers or other persons authorized to do so, of objects relating to or believed to relate to criminal activity. The Fourth Amendment of the United States Constitution prohibits unreasonable search and seizure.

Secure Facility: “Secure facility” or “detention home” means a public or private local, regional, or state residential facility that has construction fixtures designed to prevent escape and to restrict the movement and activities of children held in lawful custody.

Sentencing: A hearing at which a judge imposes punishment on a convicted defendant.

Sexual Abuse: Prohibited and legally punishable behavior that includes sex offenses such as rape, sodomy, and carnal abuse of a child, committed by and against students, school officials, and teachers.

SHOCAP: The Serious Habitual Offender Comprehensive Action Program (SHOCAP) is an interagency case management and information sharing system which enables the juvenile and criminal justice system, schools, and social service agencies to make more informed decisions regarding juveniles who repeatedly commit serious criminal and delinquent acts. A minor who is involved in SHOCAP has been adjudicated as a delinquent or convicted of murder, armed robbery, any felony sexual assault or malicious wounding, or convicted at least three times of offenses which would be felonies or Class 1 misdemeanors if committed by an adult.

Shoplifting: Taking goods from a store without payment or the intent to pay.

Show Cause: Order issued by the court for a person to show why they failed to comply with an instruction of the court.

Small Claims Court: A civil court with jurisdiction of claims up to \$5,000.

Status Offender: A juvenile who has committed certain actions which, if committed by adults, would not be considered criminal offenses – such as a curfew violation.

Status Offense: Status offense means an act prohibited by law which would not be an offense if committed by an adult. Examples include being a runaway, truant, or in violation of curfew laws. Status offender means a child who commits an act prohibited by law which would not be criminal if committed by an adult.

Statute: A law enacted by legislatures. Federal laws are enacted by Congress and are recorded in the *United States Code* (“USC”). State laws are enacted by the Virginia General Assembly and are recorded in the *Code of Virginia*.

Stimulant: A substance that temporarily increases the function of the heart, lungs, brain, and/or nervous system.

Stolen Property Offenses: Receiving, buying, selling, possessing, concealing, or transporting any property with the knowledge that it has been unlawfully taken, as by burglary, larceny, fraud, embezzlement, or robbery.

Subpoena: A written, legal order telling a person to be in court at a specific time and place to give testimony; a process commanding a witness to appear before a court at a time specified to give testimony.

Sunshine Law: A law that requires all public officials to conduct their meetings openly.

Supervised Probation: A period of time during which an offender must obey certain conditions set by the court and the probation and parole officer in lieu of serving the suspended portion of a jail or penitentiary sentence. The probation and parole officer monitors an offender's compliance with supervised probation and keeps the court informed.

Suspension: A disciplinary action that temporarily removes a student from school.

Taken Under Advisement: The judge withholds final disposition of the case until certain conditions set by the judge are met by the defendant.

Teen Court: A pre-trial diversion program of the juvenile court that allows juveniles charged with a delinquent act the option of facing their peers for punishment, instead of going to juvenile court.

Terrorism: A violent criminal act committed with the intent to intimidate or threaten the general public or to influence the policy of government.

Theft: The taking of property or depriving someone of his or her property without the intent to return it.

Threat: A communication that threatens to kill or do bodily injury to a person or any member of his or her family and places the person in reasonable fear of death or bodily injury.

Tort: Action that harms another person or his property. Tort usually refers to injuring a person, causing damage to his or her property or reputation, or harming someone's commercial interest. An intentional tort occurs when a person acts with the intent to harm someone or someone's property.

Trespass: Entering someone else's property or home without permission or remaining there against the owner's wishes; fishing or hunting on the property; or throwing things onto the property.

Trial: Process by which guilt or innocence of a defendant is determined. Can be heard by a judge or jury; a formal proceeding before a judge and/or jury to determine the outcome of an issue before the court.

Truancy: Failure to attend school that is willful and habitual.

Truant: A truant is a juvenile who has been adjudicated by a judicial officer of a juvenile court, as having committed the status offense of violating a compulsory school attendance law.

United States Code (U.S. Code): The official record of laws enacted by the United States Congress and approved by the President. These laws apply to all persons in every state and U.S. territory.

Vandalism: Willful or ignorant destruction of public or private property, especially of artistic, architectural, or literary treasures.

Verdict: The decision a jury or judge makes at the end of a trial about whether the defendant is guilty or not.

Victim: A person harmed by a crime, tort, or other wrong.

Victim Impact Statement (VIS): A written statement which describes how the crime(s) has affected the victim and his/her family. This statement may be considered by the judge in deciding a sentence. If the judge orders a presentence investigation (PSI), the VIS becomes part of the PSI and is given to the defense attorney who may review it with the defendant.

