# Superintendent’s Memo #205-20


**COMMONWEALTH of VIRGINIA
Department of Education**

DATE: August 7, 2020

TO: Division Superintendents

FROM: James F. Lane, Ed.D., Superintendent of Public Instruction

## SUBJECT: Legislative Updates that Impact the Code of Student Conduct Policy

Five pieces of legislation passed by the 2020 Virginia General Assembly and signed by the Governor will impact the implementation of the *Model Guidance for Positive and Preventative Code of Student Conduct and Alternatives to Suspension (Model Guidance),* which is in the process of being updated to reflect the new legislation. Meanwhile, the purpose of this memo is to ensure that school divisions are aware of the following legislative changes, which became effective July 1, 2020. The information below provides summaries of the bills. The entire bill language can be accessed through the links provided:

1. [House Bill 415](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=201&typ=bil&val=HB415)amends and reenacts [§ 22.1-277.04](https://law.lis.virginia.gov/vacode/title22.1/chapter14/section22.1-277.04/) *and* [§ 22.1-277.05](https://law.lis.virginia.gov/vacode/title22.1/chapter14/section22.1-277.05/)of the *Code of Virginia* to require that school boards adopt policies and procedures to ensure that suspended students are able to access and complete graded work during and after the suspension. This recommendation in the 2019 *Model Guidance* is now a requirement under the *Code of Virginia*.
2. [Senate Bill 1020](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=201&typ=bil&val=SB1020) adds a section numbered § 22.1-279.3:3 to the *Code of Virginia* allowing school boards to establish an alternative school discipline process for parties involved in an assault and battery with no injuries, (i) of subsection A of [§ 22.1-279.3:1.](https://law.lis.virginia.gov/vacode/title22.1/chapter14/section22.1-279.3%3A1/) The new *Code* Section states that “no principal shall report” the incident to law enforcement if the parties complete the established alternative school discipline process. This legislation opens the door for school divisions to develop and implement restorative practices and mediation to address physical altercations that do not result in injury.
3. [House Bill 837](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=201&typ=bil&val=HB837) amends and reenacts [§ 22.1-276.01](https://law.lis.virginia.gov/vacode/title22.1/chapter14/section22.1-276.01/) and [§ 22.1-279.6](https://law.lis.virginia.gov/vacode/title22.1/chapter14/section22.1-279.6/) of the *Code of Virginia.* The *Code of Virginia* [§ 22.1-276.01](https://law.lis.virginia.gov/vacode/title22.1/chapter14/section22.1-276.01/) now includes a definition for dress and grooming: *"Dress or grooming code" means any practice, policy, or portion of a code of student conduct adopted by a school board that governs or restricts the attire, appearance, or grooming, including hairstyle, of any enrolled student.*

In amending [§ 22.1-279.6](https://law.lis.virginia.gov/vacode/title22.1/chapter14/section22.1-279.6/) the bill permits any school board to include in its code of student conduct a dress or grooming code. For school divisions who do include dress and grooming standards for students, the amendment explicitly outlines parameters of those standards as they relate to religion, gender, equity, and privacy.

The bill also requires the Board of Education to include in its guidelines and model policies for codes of student conduct (i) standards for reducing bias and harassment in the enforcement of any code of student conduct and (ii) standards for dress or grooming codes. The Virginia Department of Education (VDOE) is in the process of revising the *Model Guidance* to explicitly address this change.

It should be noted that while the 2019 *Model Guidance* recommends that school boards implement measures to ensure the equitable application of school discipline policies, practices, and procedures, [House Bill 837](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=201&typ=bil&val=HB837) makes including standards for reducing bias and harassment in the enforcement of any code of student conduct a requirement. The 2019 *Model Guidance* includes resources to support school boards in developing the standards now required by [§ 22.1-279.6](https://law.lis.virginia.gov/vacode/title22.1/chapter14/section22.1-279.6/) of the *Code of Virginia.* The 2019 *Model Guidance* does not include specific guidance for dress or grooming codes, but it does recommend that establishing standards for dress should involve all members of the school community and that dress code violations should not be viewed as instances of defiance or disruption. The VDOE plans to develop more specific guidance for establishing standards for dress and grooming, including working with a stakeholder group that is diverse and includes student and family voices.

1. [House Bill 256](https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP0199) amends [§ 18.2-415](https://law.lis.virginia.gov/vacode/18.2-415/) of the *Code of Virginia* to provide that an elementary or secondary school student is **not guilty** of disorderly conduct in a public place if the disorderly conduct occurred on the property of an elementary or secondary school, on a school bus, or at any activity conducted or sponsored by any elementary or secondary school. The 2019 Model Guidance does not include “disorderly conduct” as a behavior for which students can be disciplined, and it is not a behavior included in the Student Behavior and Administrative Response (SBAR) data collection, which will be implemented in the fall of 2021.
2. [House Bill 257](https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP0335) and SB729 eliminates the requirement that school principals report to law enforcement certain enumerated acts that may constitute a misdemeanor offense as outlined in subsection A of [§ 22.1-279.3:1.](https://law.lis.virginia.gov/vacode/22.1-279.3%3A1/) Subsection D requires those acts to be reported if they may constitute a felony. Further, the principal shall also immediately report to the parents of any minor student who is the specific object of any act enumerated in clauses (ii) through (v) of subsection A that may constitute a criminal offense as to whether the incident has been reported to local law enforcement.

The VDOE is in the process of developing guidance for school divisions on reports to law enforcement. The guidance will include data reporting requirements for the Discipline, Crime, and Violence (DCV) and the SBAR data collections.

For questions regarding the *Model Guidance for Positive and Preventative Code of Student Conduct and Alternatives to Suspension (Model Guidance),* please contact Rebecca Kahila, School Safety and Discipline Specialist, Office of Student Services, by email at Rebecca.Kahila@doe.virginia.gov, or by telephone at (804) 225-4654.

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