



COMMONWEALTH of VIRGINIA
Department of Education

DATE: October 12, 2018
TO: Division Superintendents
FROM: James F. Lane, Ed.D., Superintendent of Public Instruction
SUBJECT: **Definition of “Aggravating Circumstances”**

Legislation enacted July 1, 2018, directed the Virginia Department of Education to define “aggravating circumstances” concerning suspension of students. The Virginia Department of Education staff and multiple stakeholder groups collaborated to create the following definition:

For the purposes of [§22.1-277](#) and [§22.1-277.05](#) of the *Code of Virginia*, “aggravating circumstances” shall mean:

- i. That a student engaged in misconduct which caused serious harm (including but not limited to physical, emotional, and psychological harm) to another person(s) or posed a credible threat of serious harm to another person(s), as determined by a threat assessment; or
- ii. That a student’s presence in the school poses an ongoing and unreasonable risk to the safety of the school, its students, staff, or others in the school; or
- iii. That a student engaged in a serious offense that is:
 - a) persistent (repeated similar behaviors are documented on the student’s disciplinary record), and
 - b) unresponsive to targeted interventions as documented through an established intervention process.

When considering suspension of a student for more than the number of days allowed by the new legislation, a division superintendent or a school board should apply this definition.

In light of the changes to the legislation regarding suspension, the department will also make changes to the 2018-2019 Discipline, Crime, and Violence (DCV) data collection process.

School divisions will receive additional guidance on new submission procedures in a separate document.

For information or guidance, please contact Bobby Kipper, School Safety Specialist, Office of Student Services, by email at Bobby.Kipper@doe.virginia.gov, or telephone at (804) 225-4653, or Rebecca Counts Kahila, Office of Student Services, School Safety Specialist, by email at Rebecca.Kahila@doe.virginia.gov, or telephone at (804) 225-4654.

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