

2007 General Assembly Update: Changes in Virginia School Law



by Roger E. Jones, Ed.D.

September 2007

INTRODUCTION

The General Assembly passed numerous pieces of legislation during the 2007 session, some of which have a direct effect on the operation of K-12 schools. This document provides a summary of relevant legislation and is divided into the following categories: Safety and Discipline, Curriculum and Instruction, Student Records and Miscellaneous.

SAFETY AND DISCIPLINE

Violent Sex Offenders on School Property

Section 18.2-370.5 was amended. The law now bars any adult who is convicted of a sexually violent offense, as defined in § 9.1-902, from entering and being present, during school hours, upon any property he knows or has reason to know is a public or private elementary or secondary school or child day center property, unless (i) he is a lawfully registered and qualified voter, and is coming upon such property solely for purposes of casting his vote; (ii) he is a student enrolled at the school; or (iii) he has obtained a court order allowing him to enter and be present upon such property, and is in compliance with terms and conditions of the order. A violation of this section is punishable as a Class 6 felony. Subsection B of the law outlines how such an offender can get a court order. **(Editor's Note:** The concern with this legislation is exactly what the General Assembly meant by "during school hours." If school hours literally means "8 – 4," then a violent sex offender could be on school grounds during athletic events or other extracurricular activities. When the editor contacted the state police, their representative indicated that the state police could not answer that question since police enforce but do not interpret the law. The representative suggested that the Commonwealth's Attorney be contacted since he/she will be responsible for prosecuting the law. The editor contacted the Lynchburg Commonwealth's Attorney who responded as follows: "There is no statutory or case law guidance that I am aware of, on the definition of "during school hours." My best guess, based on what I believe to be the legislative intent of protecting our students, would be that the term means at any time, whether between the hours of 8 to 4 or not, that the building is open to students for some school function, whether curriculum or extra-curricular." However, he went on to state "I have sent an e-mail to the Attorney General's office in Richmond asking them for whatever guidance they can provide. When I hear something back from them I will forward it to you." In addition, when Bet Neale, VASSP's lead lobbyist, contacted one of the attorney's connected to drafting the legislation, he told her that "during school hours" literally meant during regular operating hours. Thus, there appears to be some confusion about the intent of the law. Principals need to seek guidance from their superintendents who need to be talking to their Commonwealth's Attorney.)

Criminal Record Check for public school contract employees

During the 2006 session, the General Assembly passed legislation requiring public school contractors to do a criminal records check for employees who have direct contact with students on school property during regular school hours or during school-sponsored activities. The contractor must provide certification that all persons who will provide such services have not been convicted of a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child. An amendment to § 22.1-296.1 states that this does not apply to a contractor or his employees providing services to a school division in an emergency or exceptional situation, such as when student health or safety is endangered or when repairs are needed on an urgent basis to ensure that school facilities are safe and habitable, when it is reasonably anticipated that the contractor or his employees will have no direct contact with students. (**Editor's Note:** This eliminates the conflict that arose in some schools when plumbing, electrical, or other types of services were needed in an emergency.)

School bus decals with bus safety hotlines

An amendment to § 22.1-177 allows local school boards to display decals relating to local school division bus safety hotlines. The local school division is responsible for the cost of the decals bearing the number of such safety hotline. The decal can not obstruct the name of the school division or the number of the school bus.

School bus warning devices

As a result of a change to § 46.2-1090, any new school bus placed into service on or after July 1, 2007, must have warning devices which, at a minimum, must include a nonsequential system of red traffic warning lights, a warning sign with flashing lights, and a crossing control arm such that when the bus door is opened, the red warning lights, warning sign with flashing lights, and crossing control arm are automatically activated.

School board review of school crisis, emergency management, and medical emergency response plans

Under previous legislation, each local board was required to ensure that every school in the division developed a written school crisis, emergency management, and medical emergency response plan, consistent with the definition provided in the law. The Department of Education and the Virginia Center for School Safety provides technical assistance to school divisions in developing these plans. An amendment to § 22.1-279.8 now requires local school boards to annually review the written school crisis, emergency management, and medical emergency response plans. The division superintendent must certify this review in writing to the Virginia Center on School Safety no later than August 31 of each year. (**Editor's Note:** Since many school boards only meet one time in July and August, it may be necessary for some school divisions to move up the timeline for making changes to these plans so that the board has time to review them before August 31.)

Amber Alert

The General Assembly, through a change to § 52-34.1, amended the definition of an "abducted child" to include a person who is enrolled in a secondary school in the Commonwealth regardless of age. (**Editor's Note:** Previous legislation capped the age at 17. Now, any student abducted will be included in the Amber Alert program).

CURRICULUM AND INSTRUCTION

Family life education

An amendment to § 22.1-207.1 requires the Virginia Board of Education to add dating violence and the characteristics of abusive relationships to the list of topics which are required to be taught in family life education. (**Editor's Note:** The legislation does not dictate when those topics are to be taught. School divisions should receive guidance from the Department of Education.)

Reporting Career Technical Completers

This amendment to § 22.1-253.13:4 adds the number of career and technical education completers who graduate as a category on the School Performance Report Card posted on the DOE website. A "career and technical education completer" is a student who has met the requirements for a career and technical concentration or specialization and all requirements for high school graduation or an approved alternative education program. (**Editor's Note:** Schools and school divisions have had to calculate this data so it should not increase workload. The legislation simply raises the visibility and importance of career technical programs.)

Technical and Advanced Technical Diploma

Another amendment to § 22.1-253.13:4 requires the Virginia Board of Education to establish requirements for a new technical diploma. The diploma must meet or exceed the requirements of a standard diploma and must include a concentration in career and technical education, as established in Board regulations. The Board may develop or designate assessments in career and technical education for the purposes of awarding verified credit. The Governor amended the legislation to add an advanced technical diploma for students who complete the advanced studies requirements and who also complete a career technical program. (**Editor's Note:** After guidance from the State Board, this will require administrators and counselors to communicate changes to students and parents and to change forms used for program planning. This is another initiative to raise the level of importance of career technical programs.)

Diploma seal for civics education

The General Assembly created a new diploma seal for excellence in civics education by amending § 22.1-253.13:4. The Virginia Board of Education is required to establish criteria for awarding a diploma seal for excellence in community service for the standard and advanced studies diplomas. The Board shall consider including criteria for (i) the types of activities that shall qualify as community service; (ii) the number of hours required; and (iii) related requirements as it deems appropriate. (**Editor's Note:** Depending on what criteria the State Board establishes, someone in the schools will be required to monitor this requirement. Someone will need to verify the hours, maintain paperwork, order the seals, and make sure the law is implemented. In addition, depending on the criteria, someone may have to make sure that hours are transferred from one school division to another. Principals will have to decide whose job description takes on this added responsibility.)

Standards of Quality (SOQ)

The General Assembly also made other changes to the SOQ through a variety of amendments to sections 22.1-253.13 parts 1, 3, and 7. The 8th grade cumulative history SOL test will be eliminated after 2007-2008. Beginning in 2008-2009, students will take the individual assessments in United

States History to 1877, United States History: 1877 to the Present, and Civics and Economics. In addition, classroom management was added to the list of professional development programs to be provided to teachers and principals. The changes also require local school divisions to post a current copy of their school division policies, including the Student Conduct Policy, on the local division's Web site while ensuring that printed copies of such policies are available, as needed, to citizens who do not have Internet access.

No Child Left Behind (NCLB)

The General Assembly added a section to the Code to require the Board of Education to continue seeking waivers from the provisions of NCLB that are fiscally and programmatically burdensome and that are not instructionally sound or in the best interest of children. The Board is also required to report on the status of waivers by October 1, 2007. The Board must also make a recommendation to the General Assembly regarding Virginia's continued implementation of the Act. The legislation also states that if the Commonwealth withdraws from NCLB, the Board and Office of the Attorney General of Virginia are authorized to bring suit against the United States Department of Education if federal funds are inappropriately withheld as a result of the withdrawal. (**Editor's Note:** NCLB is up for reauthorization in Congress. Principals are encouraged to contact their congressman with their thoughts. In addition, share your thoughts with members of the General Assembly and members of the Virginia Board of Education.)

Surcharge for driver education programs

Previous legislation allowed local school boards to charge a per pupil fee for behind-the-wheel driver education. An amendment to § 22.1-205 allows local school boards to request permission from the State Board to assess a surcharge in order to further recover program costs that exceed state funds distributed through basic aid to school divisions offering driver education programs. Each school board may waive the fee or the surcharge in total or in part for those students it determines cannot pay the fee or surcharge. (**Editor's Note:** This appears to be "enabling legislation" allowing local school boards to recover excess costs for operating behind the wheel programs. Each local board will make decisions based on its own budget.)

Veterans Day and George Washington's birthday

Sections were added to the Code directing the Virginia Board of Education to make available to local school divisions information regarding the commemoration of Veteran's Day in the public schools. Such information shall include, but need not be limited to (i) history of the holiday, (ii) discussion topics, (iii) activities, and (iv) appropriate instructional materials. In addition, they are also required, under separate legislation, to make available to local school divisions information regarding the commemoration of George Washington's birthday on or around February 22 in the public schools. Such information shall include, but need not be limited to, (i) discussion topics, (ii) activities, and (iii) appropriate instructional materials about George Washington. (**Editor's Note:** Both of these topics should be covered in the current SOL. Thus, the only change should be additional resources for teachers.)

STUDENT RECORDS

Disclosure of student records

An amendment to § 22.1-279.8 allows the principal or his designee to disclose identifying information from a pupil's scholastic record in order to enhance the ability of the juvenile justice system to effectively serve students prior to adjudication. In addition to those agencies or personnel previously identified in the law, the principal or his designee may disclose identifying information from a pupil's scholastic record to attorneys for the Commonwealth, court services units, juvenile detention centers or group homes, mental and medical health agencies, state and local children and family service agencies, and the Department of Juvenile Justice and to the staff of such agencies. Prior to disclosure of any such scholastic records, the persons to whom the records are to be disclosed shall certify in writing to the principal or his designee that the information will not be disclosed to any other party, except as provided under state law, without the prior written consent of the parent of the pupil or by such pupil if the pupil is eighteen years of age or older. (**Editor's Note:** It may be advantageous to be proactive with this legislation by having a joint meeting between representatives of the school division and representatives from those agencies having greater access to student records. Knowing how to deal with a request for records before the first request is made would be helpful. It is especially important for counselors to be aware of this legislative change. It would also be helpful to develop a standard form used throughout the school division which agency representative would sign.)

Maintaining birth certificates

An amendment to § 2.1-3.1 allows school divisions to make a copy of the birth certificate and place it in the student's permanent record. (**Editor's Note:** This legislation simply legalizes what some schools have always done.)

MISCELLANEOUS

Health insurance credits for retired teachers

Under previous legislation, VRS provided a health insurance credit of \$2.50 for each year of service when a person retired. An amendment to § 51.1-1401 increased the credit to \$4 a year. (**Editor's Note:** A person who retired with 30 years of service would have received \$75 per month to offset the cost of health insurance under the previous law. Under the new law, that same person would receive \$120 per month toward health insurance).

Speed limit for school buses

An amendment to § 46.2-871 increases the maximum speed limit to 60 miles per hour for school buses traveling on interstates and highways where the speed limit is greater than 55 miles per hour.

Public announcement of severance benefits for certain officials appointed by school board

Under previous legislation, a governing body was required to announce severance benefits when it negotiated a severance package for a local official. An amendment to § 15.2-1510.1 now requires local school boards to do the same. The school board must also announce those benefits prior to

departure. (**Editor's Note:** This legislation is a result of school boards "buying out" contracts of superintendents.)

Due process procedures in special education

Previous legislation outlines the special education due process procedures to resolve disputes as to program placements, individualized education programs, tuition eligibility and other matters as defined in state or federal statutes or regulations. These procedures encourage the use of mediation as an informal means of resolving such disputes. An amendment to § 22.1-214 now requires that all testimony given in such a process be given under oath or affirmation administered by the hearing officer. (**Editor's Note:** As long as individuals are telling the truth in such hearings, this amendment should be of little significance. Should someone choose not to tell the truth, it means that they would be committing perjury.)

Tuition charges for children of deployed military parents

An amendment to § 22.1-5 eliminates the requirement that a student must have been attending a public school in the Commonwealth while residing with his custodial parent prior to the parent's deployment outside the United States in order to attend school without paying tuition. The bill also clarifies that children of parents who have been deployed outside the United States may continue to attend school in the Virginia school division they attended immediately prior to the deployment without paying tuition. (**Editor's Note:** If the custodian of the child lives in Virginia, the child may attend school in Virginia without paying tuition.)

Childhood obesity

The General Assembly chose to deal with childhood obesity by changing the job description of the Superintendent of Public Instruction through an amendment to § 22.1-23. An additional job descriptor was added to note the following: "Along with the State Health Commissioner, work to combat childhood obesity and other chronic health conditions that affect school-age children." (**Editor's Note:** While it is impossible to predict where a focus on childhood obesity and other health problems will occur, it is reasonable to assume that when the job description of the State Superintendent is changed, there will be a major focus on the topic.)

Public and nonpublic school transportation agreements

Section 22.1-176.1 was added to the Code as "enabling legislation" to allow local school boards to enter into an agreement with nonpublic schools within the school division to transport private school students on public school buses. Local school boards have the authority to establish terms and conditions deemed appropriate. Such terms may include, but are not limited to cost-sharing, fees, insurance, and liability. (**Editor's Note:** This was a controversial piece of legislation, but it is simply enabling legislation. No school board is required to provide such services unless it believes it is in the best interest of the division.)

Human papillomavirus vaccine

An amendment to § 32.1-46 requires females to receive three doses of properly spaced human papillomavirus (HPV) vaccine before the child enters the sixth grade. However, a parent or guardian may elect for his or her daughter not to receive this vaccine after reviewing materials describing the link between the human papillomavirus and cervical cancer. This bill contains a delayed effective date

of October 1, 2008. (**Editor's Note:** Because of the delayed effective date of this legislation, it is not something that schools will need to deal with for 2007-2008. Since the bill is not effective until October 1, 2008, schools will not have to deal with it for the beginning of the 2008-2009 school year either. It will be important to see if any changes are made to the law during the 2008 session.)

About the Editor

Roger E. Jones is the Director of the Virginia Association of Secondary School Principals Regional Center for Educational Leadership at Lynchburg College since 2003. Dr. Jones is a former VASSP president and has served as an assistant superintendent and as a building level principal at the middle and high school levels. He has been VASSP's legal editor since 1988. Dr. Jones may be contacted at rjones@vassp.org, direct line (434) 544-8444.

For More Information

For more information about the impact of laws passed by the Virginia General Assembly, policies and regulations passed by the Virginia Board of Education, and laws passed by Congress, log-on to VASSP's Web site at www.vapincipal.org. For strategies on addressing public policies and the impact on public schools and other information, please log-on to VASSP Members Only Web site at www.edleader.org. (*EdLeader*® is a registered trademark of the Virginia Association of Secondary School Principals, Inc.) Postings are made regularly on the Internet Web site by VASSP Director of Government Relations Elizabeth "Bet" Neale (bneale@vassp.org). Ms. Neale and VASSP Executive Director Dr. Randy Barrack (rbarrack@vassp.org) are General Assembly lobbyists.

For case law affecting the principal's role in public school education read VASSP's bimonthly publication, *Developments In School Law*, written by T. Page Johnson (tpjohnson@vassp.org). *Developments In School Law* is now in its twenty-third year of continuous publication. Mr. Johnson, a former VASSP director of government relations, is a consultant on school law and policy and serves as an adjunct professor of school law at the University of Virginia. Mr. Johnson, Dr. Jones, and Dr. Barrack are authors of *The Legal Handbook for Virginia School Administrators, 3rd edition*, *Omni Publishers, Inc. Bulverde, Texas*.

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The mission of the Virginia Association of Secondary School Principals, Inc., is to support school principals and assistant principals in providing leadership to their schools and communities for the purpose of improving the education of Virginia's youth.

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The vision of the Virginia Association of Secondary School Principals, Inc., is to be the Commonwealth's foremost authority on school leadership for Virginia's youth.

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School Name _____ School Division _____

E-mail Address _____

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School Phone () _____ School Fax () _____

Yes, I am an administrator at a middle level, high, or vocational school and I want to join VASSP/NASSP.

MEMBERSHIP CATEGORY: Please check (✓) one:

DUES AMOUNT

- | | |
|--|-------|
| <input type="checkbox"/> VASSP/NASSP Unified Individual Membership | \$488 |
| <input type="checkbox"/> VASSP/NASSP Institutional Membership | \$488 |

METHOD OF PAYMENT: Please check (✓) one:

_____ **Full Payment:** I am paying the entire amount now. Please find enclosed a check for \$_____.

_____ **Installment Plan:** I will pay in four (4) equal monthly installments. Enclose first payment with this form. Sorry, VASSP cannot bill.

_____ **Payroll Deduction:** I have informed my school board payroll department to begin deduction of my membership dues of \$488.

_____ **Credit Card:** I am charging my membership dues to: *check (✓) one* Visa _____ MasterCard _____

Name of Cardholder _____

Cardholder Address _____

Account No. _____ Expiration Date _____

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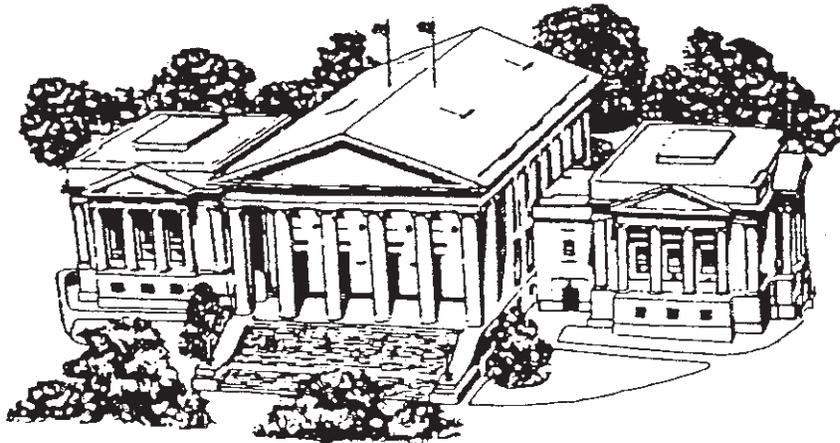
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