



#195-22

Commonwealth of Virginia
Virginia Department of Education
Superintendent's Memo #195-22

DATE: August 26, 2022
TO: Division Superintendents
FROM: Jillian Balow, Superintendent of Public Instruction
SUBJECT: **Educator Misconduct Reporting Requirements**

Two recent highly publicized cases involving alleged misconduct by public school employees prompt this reminder that protecting students from educator misconduct is a shared responsibility that must be a priority at both the state and local levels.

The *Code of Virginia* ([§ 19.2-83.1](#)) requires law enforcement agencies to notify the superintendent of the employing school division whenever a person known to be a school employee is arrested “for a felony or a Class 1 misdemeanor or an equivalent offense in another state.”

While [§ 19.2-83.1](#) places the responsibility to report arrests on law enforcement, school divisions must provide accurate contact information for the division superintendent for the law to achieve its purpose of weeding offenders out of schools. We strongly recommend that all contacts of this nature from law enforcement and social services agencies be immediately elevated to the highest administrative level within the school division.

Here are reminders of other statutes related to educator misconduct:

- [§ 22.1-253.13:7](#) (Standard 7 of the Standards of Quality) requires all school boards to develop “policies and procedures to address complaints of sexual abuse of a student by a teacher or other school board employee.” The Virginia Department of Education

developed [Guidelines for the Prevention of Sexual Misconduct and Abuse in Virginia Public Schools](#) to help local school boards create and implement policies and procedures to deter misconduct.

- [§ 22.1-296.1](#) requires that as a condition of employment for all of its public school employees, whether full-time or part-time, permanent, or temporary, every school board shall require on its application for employment certification of whether the applicant has been convicted of any violent felony set forth in the definition of barrier crime in subsection A of [§ 19.2-392.02](#); any offense involving the sexual molestation, physical or sexual abuse, or rape of a child; or any crime of moral turpitude. Any individual making a materially false statement regarding any such offense is guilty of a Class 1 misdemeanor and, in the case of a teacher, upon conviction, the fact of such conviction is grounds for the Board to revoke his license to teach.
- [§ 22.1-296.2](#) requires any applicant who is offered or accepts employment, whether full time or part-time or permanent or temporary, to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. The school board may (i) pay for all or a portion of the cost of the fingerprinting or criminal records check or (ii) in its discretion, require the applicant to pay for all or a portion of the cost of such fingerprinting or criminal records check.
- [§ 22.1-296.3](#) requires that as a condition of employment, the governing boards or administrators of private elementary or secondary schools that are accredited pursuant to [§ 22.1-19](#) shall require any applicant who accepts employment, whether full time or part time or permanent or temporary, to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant.
- [§ 22.1-296.4](#) requires every school board and every governing board or administrator of a private school accredited pursuant to [§ 22.1-19](#) shall require, as a condition of employment, that any applicant who is offered or accepts employment requiring

direct contact with students, whether full-time or part-time, permanent or temporary, provide written consent and the necessary personal information for the school board, governing board, or administrator to obtain a search of the registry of founded complaints of child abuse and neglect maintained by the Department of Social Services pursuant to [§ 63.2-1515](#).

- [§ 22.1-307](#) prohibits the employment of anyone whose job would require direct contact with students if the applicant is the subject of a founded case of physical or sexual abuse of a child. Additionally, requires the dismissal of a teacher who while employed by a local school board becomes the subject of a founded case of physical or sexual abuse of a child and has exhausted all available appeals.
- [§ 22.1-313](#) requires local school boards to notify the Board of Education within 10 business days of the dismissal or resignation of licensed personnel who are dismissed or resign due to a conviction of any felony, any offense involving the sexual molestation, physical or sexual abuse or rape of a child, any offense involving drugs, or due to having become the subject of a founded case of child abuse or neglect.

Also, please note that in accordance with [8VAC20-23-720](#) and [8VAC20-23-740](#), division superintendents, principals, and other responsible school employees have a duty to file a complaint regarding any case, in which they have knowledge that a basis for the revocation or suspension of a license exists. Furthermore, these regulations require that division superintendents or their authorized representatives undertake an “immediate and thorough investigation” of any complaint alleging conduct on the part of a license holder that may form the basis for the revocation or suspension of that individual’s license.

In addition, [20 USC § 7926](#) requires a local education agency (LEA) receiving funding under the [Every Student Succeeds Act](#) to have policies that prohibit the LEA from providing a recommendation of employment for an employee or contractor which it knows, or has probable cause to believe, has engaged in sexual misconduct with a student or minor in violation of the law.

For more information

The Office of Professional Practices, a unit within the VDOE Department of Teacher Education and Licensure, is responsible for overseeing the administrative process of investigating allegations of professional misconduct against individuals who either hold or have applied for a license issued by the Virginia Board of Education.

If you have any questions regarding the laws and regulations governing the conduct of school personnel, the licensure action process, or the procedures for submitting disciplinary complaints, please do not hesitate to contact the Office of Professional Practices at (804) 786-2083 or professional.practices@doe.virginia.gov.

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