DTF Meeting  
May 30, 2013  
Recommendation Discussion Items

(Recommendation B1,B2)

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<tr>
<td>Defered</td>
<td>B1</td>
<td>Communications (2.1 – discipline policy)</td>
<td><strong>Recommendation:</strong> Recommend that the SR&amp;R Handbook be translated into the top five most common languages of families in LCPS and have those additional languages. For paper printing, the SR&amp;R’s would be printed English and Spanish; the additional noted languages would be posted on the LCPS website [vs. printing all] for public access.</td>
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<td>B2</td>
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<td><strong>Recommendation:</strong> Recommend that the Student Rights and Responsibilities (SR&amp;R) Handbook be provided to all students in paper copy.</td>
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<td><strong>Rationale:</strong> Due to the importance of this document and the content within, it is recommended that the SR&amp;R Handbook be sent home in paper form with first day opening packet for every student.</td>
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(Recommendation B3)

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<tr>
<td>NEW</td>
<td>B3</td>
<td>Communications (2.1 – discipline policy)</td>
<td><strong>Recommendation:</strong> Recommend that the school’s specific expectations/rules be placed in the school agenda and on the schools website for public access and notification.</td>
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<td><strong>Rationale:</strong> This recommendation pertains to the specific expectation/rules of each school [all levels]. Students are given school agendas [planners] that are used for dissemination of school expectations. Many agendas print crucial components from the Students Rights and Responsibilities’ [SR &amp; R] handbook. However, many schools specific expectations/rules are not listed in the agenda and in addition, not placed in a public forum, such as the school website. By having this information posted both in the school agenda and the website, parent/guardian access is available 24/7 on the schools expectations.</td>
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(Recommendation B4)

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<td>NEW</td>
<td>B4</td>
<td>Communications (2.3 – discipline notice and appeal process)</td>
<td><strong>Recommendation:</strong> It is recommended that the Parent Liaison be given as a reference for the parents/guardians of the student with a discipline appeal possibility.</td>
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<td><strong>Rationale:</strong> Individuals may be unsure of the process and rights that the parents have during the appeal process. Many cultures do not question authority or the decision made by an authoritative figure. With the influx of numerous cultures in Loudoun County, there needs to be an unbiased individual that would be available to educate the parents on the process as it relates to discipline and the appeal process.</td>
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(Recommendation A14)

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| NEW    | A.14         | Communications | *Recommendation:*  

*Train and education personnel house at the LCPS Parent Resource Center in the appeal process outlined in Policy 8-28. These individuals would be able to encourage those students who have been disproportionately represented in long-term suspensions and expulsions, as well as any other student facing long-term suspension or expulsion in need of assistance, to avail themselves of their options under Policy 8-28. Those individuals would be unbiased adults, acting as resource making sure that the parents were fully informed of the options of appeal and how to proceed and, if requested, could accompany the student facing long-term suspension or expulsion to any appeals hearings of the School Board in order to assist with articulation on behalf of the student and parent.*

**Rationale:** Certain cultural groups and certain demographics are less likely to take advantage of the appeal process. It is important that students and their parents are fully informed of their options when facing long-term suspension or expulsion. This could provide for greater utilization of the appeal process which may result in a decrease in expulsions and greater modifications of the lengths of suspensions. Equity in the discipline process would be better ensured. The Parent Resource Center, located at 20 Union Street in Leesburg would be less intimidating than the local school or the administration building to parents and students seeking helpful information.

**Sample recommendation from the Fairfax group:**

*Fairfax County School Board should appoint a discipline liaison, considered to be an independent or neutral party, to serve as a point of contact for parent/guardians and students who have questions or concerns about the disciplinary process. The discipline liaison will report to the School Board and his/her duties would include the following:*  

- Provide information on the discipline process
- Make available appropriate resources
- Communicate discipline-related issues to the FCSB, FCPS and other stakeholder groups, with the goal of continuous improvement.
### Recommendations A9, A10, A11

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| NEW    | A.9          | Policy (1.3 Definitions) | **Recommendation:**

*Recommend that the discipline policy document be restructured to present the content and application in a more logical and user friendly format in order to provide proper and reasonable notice of both the substantive and procedural content.*

**Rationale:** As it exists now, the policy document is difficult to navigate. It fails to provide a glossary of terms or list of *defined* offenses apart from a general list of offenses in the suspension section. There is no logical information path for parents, students or administrators to efficiently find information or cross reference variations in the notice requirements among the sections and offenses. This adds to the confusion, misunderstanding or lack of clarity and/or arbitrariness in the discipline process and its application, the notice of rights and corresponding duties of students, parents, and administrators.

A good model of document structure to follow may be the substantive and topical order in the VDOE Student Conduct Policy Guidelines (2009) [Table Of Contents](#) as it offers a logical presentation of the information.

| NEW    | A.10         | Policy (1.3 Definitions) | **Recommendation:**

*Recommend that policy Section 8-1 include, at a minimum, the sections below whether or not the entire policy document is reformatted overall. Following the General authority section, two additional sections should be included: one consolidating Parental Notice and one that provides a List of Offenses.*

*Section A: Shall include the current general policy statement.*

*Section B: Shall define and consolidate what constitutes Parental.*

*Section C: Shall provide the list of school rules/offense.*

**Rationale:** Currently policy is very poorly assembled and disjointed. For example, the list of offenses is found only under Short Term Suspension, but applies to all discipline. So a student who received detention, for example, will not intuitively locate the list of prohibited offenses nor does he know what type of conduct constitutes the offense. In addition, parents have a difficult time understanding what “notice” refers to throughout the policy.

All stakeholders, administrators, parents and students, will benefit from the clarity in policy.

Suggested policy format change:

*§8-1 Extent of School Authority*

  A. General
  B. Notice to Parents and Guardians
  C. Standards of student conduct
Recommendation: In order to provide plain & clear notice to parents, students, and administrators of the scope and limits of LCPS Authority, Section 8-1 should be revised to include and explicitly state the relevant statutory language that constitutes the adopted policy and/or specifically identify and acknowledge when the adopted language affords more due process in the policy than is required by state or federal law with regard to the following:

i. The nature of School authority/power
ii. The extent of the school board’s jurisdiction and application to all students
iii. The parental responsibility and duty to assist the school in enforcing the standards of conduct, the compulsory school attendance law, and the power and basis upon which school authorities may petition the court for relief and/or civil penalties for failure of a parent to assist.
iv. The explicit recognition in this section that parental rights are not waived and still protected by the constitutions or laws of the US, the Commonwealth
v. The right of parents to express disagreement with the policies or decisions without fear of reprisal.

Rationale: The current language in Section 8-1 includes some of the specific language found in the relevant statutes. However, section, 8-1 also includes language describing a very broad 24hr/7day jurisdictional school authority over student conduct “at any time or any place” a phrase which inappropriately lends itself to two troublesome issues 1) the “unseemly and dangerous precedent to allow the state, in the guise of school authorities, to reach into a child’s home and control his/her actions there to the same extent that it can control that child when he/she participates in school sponsored activity” and 2) the concept that the school yard has no boundaries and school authorities have unlimited reach. Although the classic brick and mortar or geographical threshold associated with jurisdiction is increasingly blurred, the language of the LCPS Policy Extent of School Authority should not contribute to the blurring. Explicitly stating in the foundational section the “extent of authority that is clearly granted, where it is limited and checked by the rights of Parents” as described in i-v. above serves to inform and put all persons on notice as to what are some clear boundaries and describes the roles and responsibilities of the parties in relation to each other.

Secondly, the policy as currently written focuses on the power and authority of the schools and the parental duties, with less description and acknowledgement of the corresponding rights of those parents.

Finally, if the LCPS School-Board properly affords more due process than is required by state or federal law then that should be included in the policy statement.

References:
LCPS Section 8-1
VBOE Student Conduct Policy Guidelines pp. 3, 5, 30
§ 22.1-253.13:7. Standard 7 School board policies
§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations
§ 22.1-279.3. Parental responsibility and Involvement requirements
§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations.
VA Constitution Art VIII School Boards
VA Constitution Article 1 Bill of Rights (Freedom of Conscience)

1 Layshock v. Hermitage School District, 650 F.3d 205 (3rd Cir.2011)(en banc)(cert denied) the language quoted and paraphrased here accurately describes the current conflicts and lack of clarity regarding the extent of coercive power the “school-house” might exercise over misconduct specifically with regard to off-campus speech and the 1st Amendment Freedom of speech. However it is also illustrative of the potential conflicts between parental sovereignty to raise and discipline one’s own children off-campus, in spite of and when arguably, more and more conduct with the aid of technology and the internet may be reasoned backward to have a nexus to the school house.
**Recommendation A12**

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<td>NEW</td>
<td>A.12</td>
<td>Policy (1.2 b Anti-Bullying / Peer Bullying)</td>
<td><strong>Recommendation:</strong></td>
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1. **To establish an objectively neutral definition of bullying in order to inform, provide notice and aid to parents, students, and administrators of the conduct that substantively and factually constitutes an offense of “bullying” and that will be applied to the facts of the individual student’s conduct alleged to be the misconduct.**

2. **Parents of students accused of misconduct for “bullying” are to be notified of the accusation of “bullying” and the specific conduct and facts of their child’s behavior alleged to factually constitute the bullying conduct.**

**RATIONALE:**

Bullying is at all times wrong. Unfortunately, “bullying” is the offense du jour that is quickly becoming the subject of the same type of politically laden posturing that lends itself to issues with important cultural and emotional sensitivities behind them. The two recommendations are offered in tandem to avoid the problems school boards are presently experiencing with and are the subject of many discipline policy reviews taking place across the US. These problems and reviews are the results of the practical impact of similar historical posturing with regard to “guns, alcohol, and drugs.” The goal of the tandem recommendation is two-fold: What have we learned from past policy development & application that does not work and lends itself to unjust discipline? And how do we determine objectively what is the misconduct in order to apply appropriate and individually specific discipline to students with the positive goal of keeping them in or getting them back on track with his or her educational goals. A neutral definition of bullying serves the ends of justice because it does not make distinctions upon anything other than one’s humanity. No human being is to bully another.

Secondly, bullying should be defined (as all misconduct offenses ought to be) to distinguish it from “fighting” and to assist from further victimizing the bullied person who, when a physical altercation is in the fact pattern, may be legitimately acting in self-defense.

Lastly, the two recommendations serve the purpose jointly of ensuring a proper inquiry and/or investigation is done to establish and distinguish between conduct (speech and or other behavior or comment) that is properly the exercise of individual fundamental rights and liberties such as freedom of religion, speech, conscious and to speak in dissent, as well as meeting substantive and procedural due process requirements.

**REFERENCES:**

LCPS DISCIPLINE POLICY §8-27b(10) and §8-28(B)(2)


“TO THE GOVERNOR AND THE GENERAL ASSEMBLY OF VIRGINIA

“the Recommendation to include imbalance of power”

The definitions of “bullying” provided by many school divisions in reviewed division policies and student codes of conduct did not include the component of imbalance of power as described in the literature, which also differentiates bullying from fighting. Fighting is between relative equals; however, in instances of bullying, there is a real or perceived imbalance of power between bully and victim.”


Footnote 8 referencing Dear College Letter July 28,2003 http://www2.ed.gov/about/offices/list/ocr/firstamend.html
Some conduct alleged to be harassment may implicate the First Amendment rights to free speech or expression. For more information on the First Amendment’s application to harassment, see the discussions in OCR’s Dear Colleague Letter: First Amendment (July 28, 2003), available at http://www.ed.gov/about/offices/list/ocr/firstamend.html, and OCR’s Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties (Jan. 19, 2001) (Sexual Harassment Guidance), available at http://www.ed.gov/about/offices/list/ocr/docs/shguide.html.

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations.

In the case of suspension and expulsion, the procedures set forth in this article shall be the minimum procedures that the school board may prescribe.

B. School boards shall adopt and revise, as required by § 22.1-253.13:7 and in accordance with the requirements of this section, regulations on codes of student conduct that are consistent with, but may be more stringent than, the guidelines of the Board. School boards shall include, in the regulations on codes of student conduct, procedures for suspension, expulsion, and exclusion decisions and shall biennially review the model student conduct code to incorporate discipline options and alternatives to preserve a safe, nondisruptive environment for effective teaching and learning.

Each school board shall include, in its code of student conduct, prohibitions against bullying, hazing, and profane or obscene language or conduct. School boards shall also cite, in their codes of student conduct, the provisions of § 18.2-56, which defines and prohibits hazing and imposes a Class 1 misdemeanor penalty for violations, i.e., confinement in jail for not more than 12 months and a fine of not more than $2,500, either or both.

http://lis.virginia.gov/cgi-bin/legp604.exe?000+cod+22.1-279.6
**Recommendation A13**

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<td>NEW</td>
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<td>Policy (1.2 b Cyber Bullying)</td>
<td><strong>Recommendation:</strong></td>
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<td>1. Establish a neutral definition of “cyber-bullying” consistent with state and other applicable law in the discipline policy to be published and included in the Policy manual and related Student Code of Conduct information.</td>
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<td>2. Include information on related Virginia Criminal law violations in education assemblies regarding bullying to inform and make students aware of the potential criminal penalties they may face by misusing social media and other technology tools.</td>
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<td>3. Education assemblies on bullying should include instruction on the distinctions between speech that is protected and that which is defamatory as part of a civics lessons on individual rights secured by US and State Constitutions.</td>
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**RATIONALE:** The requirement to balance individual rights of students and the need to maintain the mission and order of educating students is still necessary when dealing with student misconduct, especially in the context of an offense for “bullying.” The line between on-campus and off-campus speech is not as clear and technology aides, not only in the “omnipresence” of speech and conduct, but in exponentially multiplying the chain of publication in such a way that at some point speech and conduct will find its way into the school setting for both students and employees. The "nexus" to school then appears to be inevitable if not "forecasting substantial disruption" to the mission etc.

Most anti-bullying periods of instruction and recommended interventions focus on very narrowly targeted behavior and yet fail to address the larger civil and civic issues involved which are properly within the education goals of public schools. A school administration that fails to educate students on **rights and duties** foundational and fundamental to our form of government as they apply to daily life will unintentionally teach through “discipline” the relentless application of administrative enforcement and “that young people are brow beaten into believing that they have no true rights and government authorities have total power and can violate constitutional rights whenever they see fit.”

**REFERENCES: VIRGINIA CODE**

§ 22.1-70.2. Acceptable Internet use policies for public and private schools.  
http://lis.virginia.gov/cgi-bin/legp604.exe?000+cod+22.1-70.2

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct;  
http://lis.virginia.gov/cgi-bin/legp604.exe?000+cod+22.1-279.6

§ 22.1-208.01. Character education required  
http://lis.virginia.gov/cgi-bin/legp604.exe?000+cod+22.1-208.01

§ 18.2-390. Definitions Chapter 8 - Crimes Involving Morals and Decency.  
http://lis.virginia.gov/cgi-bin/legp604.exe?000+cod+18.2-390

§ 18.2-152.7.1. Harassment by computer; penalty  
§ 18.2-152.7. Personal trespass by computer; penalty

US Constitution, 14th Amendment US Constitution Equal Protection Clause, Substantive Due Process Clause

Recommendation:
Revise Policy Reg 8-35 and 8-36 to remove the predetermined punitive consequences defined in the policy regulation. Investigate and incorporate disciplinary responses that produce evidence based results of the desired behavior modification outcomes.

Rationale: Regulations for policy 8-35 and 8-36 provide defined consequences to be imposed for First Time policy violators (under many circumstances). First time offenders of policy 8-35 receive: 10-day suspension and assignment in the 3-day Insights education program. And most first time offenders of policy 8-36 receive: 10-day suspension, substance abuse assessment, 3-day Insights education, and a 30-day placement at the Douglas School where students receive “instruction equivalent to homebound instruction.”

Beyond discipline, students may also be referred to the Insights program in other ways – by the school counselors, by parents, or self referrals. The 3-day insights program has proven to be very successfully at providing substance abuse education and early intervention, and participation in the program has resulted in positive results and low-recidivism rates.

However, drug and alcohol policy violations continue to rise within LCPS. From 2009-2012, there has been an increase of 38% in drug related violations, and an increase of 70% in alcohol related violations. The National Center on Addiction and Substance Abuse at Columbia University has declared teen substance use/abuse a problem of “epidemic proportions”. They suggest that early intervention and education are key components to the solution.

In addition, several reports and publications produced by organizations such as the American Academy of Pediatrics, American Psychological Association, National Association of School Psychologists, and Education Weekly, etc. suggest that mandatory school exclusions do not necessarily correlate to favorable behavior modifications.

Arlington Public Schools has implemented a program called “Second Chance” which focuses on education rather than punishment for their first time offenders. The program requires participation in educational and early intervention programs in lieu of out of school suspensions or alternate placements.

Both the APS and the LCPS current education and intervention programs have produced low recidivism rates. The suspension and alternative placement components of the Policy Regulations have been in place for many years and were not developed based on evidentiary information.

References:
LCPS Policy 8-35reg
LCPS Policy 8-36reg
Arlington Public Schools policy 25-1.16 Prohibited Substance Use
Second Chance
American Academy of Pediatrics,
American Psychological Association,
Education Weekly
Recommendation D8

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| NEW    | D.8          | Policy 5-55 SpEd | **Recommendation:**  
Recommend that policy §5-55 Disciplinary Procedures for Students with Disabilities be modified to include a general statement that provides guidance to school administrators to consider unique circumstances of the incident and the student's disability when the student violates the code of conduct.  

**Rationale:** Based on LCPS discipline data, students with disabilities are four times more likely to be suspended than their general ed peers. Disabled students make up ~40% of students suspended, while representing only ~11% of the population. Given this disproportional representation of disabled students in the discipline data, we recommend that LCPS policies incorporate language provided in the Regulations Governing Special Education Programs for Children with Disabilities in Virginia (8VAC20-81-160 Discipline procedures) in order to provide consideration of the child's disability when evaluating the misconduct.  

**Suggested policy language change:**  
§5-55 Disciplinary Procedures for Students with Disabilities  

A. Purpose  
The purpose of this policy is to establish procedures, consistent with applicable law, for the discipline of students with disabilities.  

B. General  
School personnel shall, on a case-by-case basis, consider any unique circumstances or harmful effects when deciding whether or not to discipline a student with a disability that violates a code of student conduct. In reviewing the disciplinary incident, school personnel should review the child’s IEP and any behavioral intervention plan, and consult with the child’s special education teacher(s) to provide further guidance in considering any unique circumstances or harmful effects related to the incident.  

C-B. In-School Disciplinary Measures  
School personnel are authorized to use in-school disciplinary measures in accordance with §8-26 of these policies. A student’s IEP or 504 plan will be reviewed to insure all accommodations and necessary support services are in place to allow the student to access any assigned work.  

References:  
LCPS Policy 5-55  
(Recommendations D9)

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| NEW    | D.9          | Policy/Communications | **Recommendation:** Recommend that the School Board develop a philosophy statement to be included in the school discipline policy.  

**Rationale:** The VDOE Student Code of Conduct Policy Guidelines (2009) states that "local school board policy on student conduct should address certain basic elements including: 1. Statement of purpose and intent and/or philosophy." The current policy does not contain a clear statement on purpose or philosophy. Such a statement would assist in providing clarity and guidance to students, parents, and administrators.

Sample Statements of Purpose and Intent provided in VDOE guidelines:

1. The development, implementation, and enforcement of the student conduct policy is intended to ensure a safe, nondisruptive environment for effective teaching and learning.
2. Standards of student conduct are designed to protect the health, safety and welfare of students.
3. It is the belief of the (name of school board) that all students have the right to an environment that is safe, drug-free, and conducive to learning. To that end, the student conduct policy sets forth standards for student conduct.
4. The primary objectives of the standards of student conduct are (1) to provide standards and guidelines for student behavior; (2) to assist the student in becoming a responsible, productive, and self-disciplined citizen; and (3) to maintain a safe and orderly environment in the classroom and all other areas of the school.

(Recommendation D10)

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| NEW    | D.10         |            | **Recommendation:** Recommend that the School Board establish an Implementation Team to work with the School Board, the school administration and community stakeholders to research and implement desired modifications to the discipline policy. The team should include key members of the DTF, the school administration, and the community.  

**Rationale:** A tremendous effort has been put forth by the Discipline Task Force in researching and developing the DTF Report of Recommendations. Upon review and consideration of the recommendations, the School Board should create an implementation team to further evaluate each desired modification for feasibility and optimal implementation. While it is suggested that the group be a manageable size, it will be important that team be composed of knowledgeable participants.
(Recommendation A3)

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<td><em>Upon completion of a disciplinary appeal in which the outcome was to modify the disciplinary action, the school board discipline committee shall consider the disciplinary disposition of other students involved in the same incident. At that time, the Discipline Committee may choose to also modify the disciplinary disposition of the other students involved but who did not formally appeal.</em></td>
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