

HUMAN RESOURCES

Duties, Responsibilities, and Rights of Employees

Student Exclusion Because of Assault or Threatened Assault Against a Teacher or Other Employee

This regulation supersedes Regulation 4411, which has been rewritten in its entirety.

I. PURPOSE

To prescribe the procedure for removing a student from class because of an assault or threat of an assault against teachers or other employees; to define the offenses of threatened assault and physical assault against teachers or other employees; and to indicate action required in any cases of assault against teachers or other employees.

II. STUDENT ASSAULT OR THREAT OF ASSAULT AGAINST TEACHERS OR OTHER EMPLOYEES

A. Definitions

1. A threatened assault is any willful attempt or threat to inflict injury, coupled with an apparent present ability to do so, such as would give the victim reason to fear or expect bodily harm.
2. A physical assault is the willful use of actual force or physical violence against the employee.

B. Temporary Exclusion From Class

1. In the event of a threat or physical assault against a teacher, the teacher shall send or take a student to the principal or his or her designee, in which case the teacher shall furnish full written particulars of the misconduct as soon as possible.
2. If a principal determines that no assault has occurred and an excluded student is to be readmitted to class, the principal or his or her designee shall advise the teacher of action(s) taken either before or at the time of returning the excluded student to class, except under unusual circumstances.

C. Action Required When an Assault Has Occurred

1. If the principal determines that a student has threatened to assault or has physically assaulted a teacher or other employee, the principal, pursuant to the procedures governing student discipline, shall suspend--and may recommend expulsion of-- the student. All physical assaults on or threats of assault against teachers or other employees must be reported by the principal or the program manager to the office of the appropriate area or assistant superintendent.

2. The student shall not be returned to class until a conference is held by the area superintendent or his or her designee. Such conference may include, except under unusual circumstances, the principal, the affected teacher or other employee, the student, and the student's parent or legal guardian.
3. If an expulsion is recommended by the principal, the student shall not be returned to school until the issue is resolved. A hearing shall be held by the Superintendent's designee pursuant to the procedures governing student discipline.
4. In circumstances in which a student is transferred to another school as a result of threatened or actual assault against a teacher or other employee, the student shall have no right to return to his or her base school, but may petition to do so. In the event that reenrollment is authorized, the student shall not be returned to his or her base school without consultation with the teacher or other employee who was the subject of the assault. If possible, the teacher or other employee shall be invited to participate in the readmission conference.

III. FOLLOW-UP PROCEDURES FOR ASSAULTS AGAINST TEACHERS OR OTHER STAFF MEMBERS

A. Workers' Compensation

If the teacher or staff member has been injured, the principal or the program manager or the injured staff member must notify the workers' compensation liaison for the appropriate school or office. The liaison will assist the injured employee in following Regulation 4720.4, Employee Work-Incurred Injuries--Workers' Compensation Benefits. In the case of a physical assault on an employee, the assaulted individual shall not be charged personal or sick leave during the elimination period for workers' compensation benefits (normally up to seven calendar days). In such cases, the principal or program manager must notify the coordinator for leaves of absence in the Office of Benefit Services, Department of Human Resources, in order to report the leave correctly. (See also Regulation 4720.4, Employee Work-Incurred Injuries--Workers' Compensation Benefits.)

The approval to report leave as "employee assault" shall in no way negate all other requirements and procedures defined in Regulation 4720.4 and the Virginia Workers' Compensation Act. These procedures include, but are not limited to, the reporting of work-incurred injuries, the compensability determination, and processing of the claim under workers' compensation, including the requirement for medical documentation to substantiate all absences related to the injury. Furthermore, a preliminary grant of leave during the elimination period for workers' compensation benefits shall not comprise any determination that the injury is compensable under the Virginia Workers' Compensation Act.

B. Law Enforcement

The principal or program manager shall be responsible for notifying the affected teacher(s) or other employee(s) that he or she (they) might have legal recourse against anyone who threatened or committed an assault. Either the assaulted teacher or employee or the principal or the program manager may contact the police, depending on the specific circumstances involved. If the employee contacts the police, he or she shall notify the principal or the program manager.

C. Legal Advice

If the assaulted teacher or employee requests legal advice, the principal or the employee may contact the director, Office of Employee Relations, for assistance. (See also Policy 4410.2.)

See also: Regulation 2610.10, Exclusion (Suspension or Expulsion) of Students From School
Policy 4410.2, Educational Employee Obligations and Rights
Regulation 4720.4, Employee Work-Incurred Injuries--Workers' Compensation
Benefits