



VIRGINIA  
LEGAL AID  
SOCIETY

## Education Rights for Virginia Children

### Enrollment

1. Every child, between the ages of 5 and 20 years, regardless of citizenship or nationality, has the right to attend the local public schools in the school division where he/she lives.
2. For initial enrollment at a local public school, the following documents must be submitted: birth certificate, proof of residency, proof of immunizations, and a report of a physical exam performed in the prior 12 months.
3. *Homeless* children, children placed in *foster care* and children of migrant workers are entitled to immediate enrollment in school, even if they do not have all of the documents usually required for enrollment. Students must also receive free transportation either to their original school or to the new school in which they are enrolling.
  - Parents should call the school district office and ask for the liaison (contact) for homeless children and youth, the liaison for children in transition, or the McKinney-Vento liaison (whose job it is to make sure that your child has access to all appropriate services).
  - Every school district must have a liaison to assist these children.
  - If a child is **homeless or in transition, the child is not required** to provide the records that are normally required for enrollment at a local school, including proof of residency requirements, records requirements (including school records, birth certificates, and immunization or other medical records), and guardianship requirements.
  - The **enrolling school must obtain** a child's records from his/her previous school.
4. A student may enroll in a school division if the student resides in that division with someone other than a parent who has legal custody, or with an adult relative who is providing temporary kinship care. "Kinship care" means "full-time care, nurturing, and

**THIS INFORMATION IS NOT LEGAL ADVICE**

*Leslie Dodson, Esq., 217 East Third Street, Farmville, VA 23901, is responsible for the contents of this publication.*

protection” of the child. The school division may require a copy of any legal custody order, or in the case of kinship care, may require affidavits that explain the need for, and the details of, the kinship care arrangement. The school division may also require a Power of Attorney that gives the kinship care provider authority to make decisions about the student’s education.

5. A school division in Virginia can deny or delay enrollment of a student based on the student’s expulsion or suspension of more than 30 days from another school division.
6. If the child’s school received federal Title 1 funding and is low performing or identified as “in School Improvement”, the child may transfer to a higher-performing school in his/her district and possibly receive transportation for two years or more under School Choice Rights.
  - a. Parents may find out the status of their child’s school by calling the child’s school and ask “is this a Title 1 school, and if so, is this school identified as in School Improvement under No Child Left Behind”?
  - b. A transfer request to a higher performing school, in or outside of the child’s school district, must be made in writing to the child’s current principal. Parents should retain a copy for their records.
  - c. Sending a child to a school out of the district the child resides in requires parents to pay for the cost of educating the child in that school district.
  - d. It is a criminal offense to make a false statement about a student’s residence for them to attend schools.

## **Services**

7. A student whose native language is not English has the right to equal and meaningful access to the school division’s programs, including Standards of Learning (SOL) tests, which are required for graduation.
8. Students with special needs are entitled to an evaluation and, if found eligible for special education, are entitled to a free, appropriate, public education from age 2 through 21 (even if they have been expelled).

## **“Dropping Out” and Discipline**

9. Only a parent may withdraw a student from school, except that a school division must withdraw a student from its rolls if the student has been absent for 15 consecutive days. In that case, the parent may immediately re-enroll the student.

**THIS INFORMATION IS NOT LEGAL ADVICE**

*Leslie Dodson,, Esq., 217 East Third Street, Farmville, VA 23901, is responsible for the contents of this publication.*

10. Parents and students must read the school's code of conduct very carefully, including dress requirements, as it will be strictly enforced by the school.
11. If a student is accused of serious misconduct, the student should insist that his parent be present before answering questions or writing out a statement.
12. Parents will have to pay the cost of repair to any damages caused by the child to school property.
13. If a student is suspended the principal must send a letter to the parent describing the incident, identifying when the child can return to school and notifying the parent of their right to appeal.
14. Short-term suspensions of up to ten days may be appealed in writing to the superintendent of the school division or his/her designee. Check the Code of Student Conduct to find out the time limits for this appeal.
  - a. The student can be given homework assignments so that s/he does not fall behind. The parent should call the school and ask that this happens.
15. Suspensions of 10 days or more are viewed as long-term suspensions and entitle the student to a hearing before the board of education of the school division; only the board of education can expel a student.
  - a. The board of education decision can be further appealed to Circuit Court within 30 days.
  - b. If a student has been suspended for more than 30 days, s/he can be excluded from attending another school for the term of the suspension.
16. Expulsions can initially last for up to one calendar year (365 days) and are subject to the same rights to hearings and appeals as long-term suspensions.
  - a. Once a student has been expelled from any public or private school in any school district, any school can exclude the student for up to one year.
  - b. A student must apply to be readmitted into school after being expelled. The parent must write a letter to the Superintendent requesting readmission. If the Superintendent denies readmission, the decision may be appealed to the School Board.
17. There are now police officers in almost all public schools. Although they are called School Resource Officers they are not school employees. They still work for the police.
  - a. A student approached by a School Resource Office has the same rights as when approached by any other police officer.
  - b. A student questioned by a School Resource officer should say "I have the right to talk with a lawyer. I will not talk with you until I talk with a lawyer," even if the School Resource Officer is with the Principal.

**THIS INFORMATION IS NOT LEGAL ADVICE**

*Leslie Dodson,, Esq., 217 East Third Street, Farmville, VA 23901, is responsible for the contents of this publication.*

18. If the principal calls and asks the parent to make the student talk, the parent should tell the principal and the student that the parent wants the student to talk with a lawyer before s/he talks with the principal.
19. School administrators can conduct searches in a student's locker, desk, backpack, purse or car if they have a reasonable suspicion that the student has a specific item which violates a school rule or a law. When a search is made the administrator must write a report justifying the reasons for the search and reporting what was found.

## **Attendance**

20. Virginia has compulsory education for all children between the ages of 5 and 18. This means that children must be educated during those years in public, private, or parochial schools, or home-schooled by their parents, unless school attendance has been excused by the school division.
21. Every parent is responsible for getting his/her child to school on time every day. If a child is truant, the parent will have to go to a conference at the school after the child's 6<sup>th</sup> missed day, may be taken to court, fined up to \$500 and/or have TANF revoked, and in some cases, may even lose custody of the child.
22. Excessive absences can result in loss of school credit in high school and/or retention in lower grades. Each school division has its own policy on the number of days of absence permitted for each semester without losing credit.
23. A student's driver's license may be suspended for excessive absenteeism. A student under the age of 18 who has 10 or more unexcused absences on consecutive school days may have their license suspended for any period of time, until they reach 18 years of age. The principal may file a petition in Juvenile & Domestic Relations Court asking the judge to suspend the license. The student would be given the opportunity to defend against the petition.
24. Parents have the right to challenge retention of a student; parents may also request retention.
25. Participation in graduation ceremonies is not a right; receiving a diploma for satisfactory completion of graduation requirements is a right.

## **Education Resources:**

Homeless Children – Project HOPE

**THIS INFORMATION IS NOT LEGAL ADVICE**

*Leslie Dodson,, Esq., 217 East Third Street, Farmville, VA 23901, is responsible for the contents of this publication.*

[www.wm.edu/hope](http://www.wm.edu/hope)  
1-877-455-3412

Virginia Department of Education  
[www.doe.virginia.gov](http://www.doe.virginia.gov)  
1-800-292-3820

Parent Educational Advocacy Training Center (PEATC)  
[www.peatc.org](http://www.peatc.org)  
1-800-869-6782  
Fax: 1-800-693-3514

Just Children – Legal Aid Justice Center  
[www.justice4all.org](http://www.justice4all.org)  
434-977-0553  
Fax: 434-977-0558

**THIS INFORMATION IS NOT LEGAL ADVICE.** Legal advice is dependent upon the specific circumstances of each situation. Therefore, the information contained in this pamphlet cannot replace the advice of competent legal counsel.

*Free Legal information by Web and Phone: [www.vlas.org](http://www.vlas.org) and  
1-866-LegalAid (534-5243)*

***THIS INFORMATION IS NOT LEGAL ADVICE.*** *Legal advice is dependent upon the specific circumstances of each situation. Therefore, the information contained in this pamphlet cannot replace the advice of competent legal counsel.*

Free Legal information by Web and Phone: [www.vlas.org](http://www.vlas.org) and  
1-866-LegalAid (534-5243)

**THIS INFORMATION IS NOT LEGAL ADVICE**  
*Leslie Dodson,, Esq., 217 East Third Street, Farmville, VA 23901, is responsible for the contents of this publication.*