

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2381

BY DELEGATE HIGGINBOTHAM

[Introduced February 13, 2021; Referred to the
Committee on Education]

1 A BILL to amend and reenact §18A-2-8 of the Code of West Virginia, 1931, as amended, relating
 2 to authorizing the suspension or dismissal of school personnel who retaliate against a
 3 student or parent who has made a complaint against teacher or school personnel for
 4 inappropriate or abusive behavior.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. SCHOOL PERSONNEL.

§18A-2-8. Suspension and dismissal of school personnel by board; appeal.

1 (a) Notwithstanding any other provisions of law, a board may suspend or dismiss any
 2 person in its employment at any time for: Immorality, incompetency, cruelty, insubordination,
 3 intemperance, willful neglect of duty, unsatisfactory performance, a finding of abuse by the
 4 Department of Health and Human Resources in accordance with §49-1-1 *et seq.* of this code,
 5 retaliation against a student or parent who has made a complaint against teacher or school
 6 personnel for inappropriate or abusive behavior, the conviction of a misdemeanor or a guilty plea
 7 or a plea of nolo contendere to a misdemeanor charge that has a rational nexus between the
 8 conduct and performance of the employee's job, the conviction of a felony or a guilty plea, or a
 9 plea of nolo contendere to a felony charge.

10 (b) A charge of unsatisfactory performance shall not be made except as the result of an
 11 employee performance evaluation pursuant to §18A-2-12 of this code. The charges shall be
 12 stated in writing served upon the employee within two days of presentation of the charges to the
 13 board.

14 (c) The affected employee shall be given an opportunity, within five days of receiving the
 15 written notice, to request, in writing, a level three hearing and appeals pursuant to the provisions
 16 of §6C-2-1 *et seq.* of this code, except that dismissal for a finding of abuse or the conviction of a
 17 felony or guilty plea or plea of nolo contendere to a felony charge is not by itself a grounds for a
 18 grievance proceeding. An employee charged with the commission of a felony, a misdemeanor
 19 with a rational nexus between the conduct and performance of the employee's job, or child abuse

20 may be reassigned to duties which do not involve direct interaction with pupils pending final
21 disposition of the charges.

22 (d) A county board of education has the duty and authority to provide a safe and secure
23 environment in which students may learn and prosper; therefore, it may take necessary steps to
24 suspend or dismiss any person in its employment at any time should the health, safety, and
25 welfare of students be jeopardized or the learning environment of other students has been
26 impacted. A county board shall complete an investigation of an employee that involves evidence
27 that the employee may have engaged in conduct that jeopardizes the health, safety, or welfare of
28 students despite the employee's resignation from employment prior to completion of the
29 investigation.

30 (e) It shall be the duty of any county superintendent to report any employee suspended or
31 dismissed, or resigned during the course of an investigation of the employee's alleged
32 misconduct, in accordance with this section, including the rationale for the suspension or
33 dismissal, to the state superintendent within seven business days of the suspension, dismissal,
34 or resignation. The state superintendent shall maintain a database of all individuals suspended
35 or dismissed for jeopardizing the health, safety, and welfare of students, or for impacting the
36 learning environment of other students. The database shall also include the rationale for the
37 suspension or dismissal. The database shall be confidential and shall only be accessible to
38 county human resource directors, county superintendents, and the state superintendent.

NOTE: The purpose of this bill is to authorize the suspension or dismissal of school personnel who retaliate against a student or parent who has made a complaint against teacher or school personnel for inappropriate or abusive behavior.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.