

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4562

BY DELEGATES KESSINGER, BURKHAMMER, MAYNOR,

KEATON, AND PINSON

[Passed March 9, 2022; in effect ninety days from passage.]

1 AN ACT to amend and reenact §18A-2-8 of the Code of West Virginia, 1931, as amended, relating
2 generally to the suspension and dismissal of school personnel by board and the appeals
3 process; requiring upon commencement of any fact-finding investigation involving conduct
4 alleged to jeopardize the health, safety, or welfare of students or the learning environment
5 of other students, the affected employee to be suspended, placed on administrative leave,
6 or reassigned to duties which do not involve direct interaction with pupils; requiring an
7 employee charged with the commission of a felony, a misdemeanor with a rational nexus
8 between the conduct and performance of the employee's job, or child abuse to be
9 suspended, placed on administrative leave, or reassigned to duties which do not involve
10 direct interaction with pupils pending final disposition; and making it the duty of any school
11 principal to report any employee conduct alleged to jeopardize the health, safety, or
12 welfare of students or the learning environment of other students, to the county
13 superintendent within 24 hours.

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, the
5 conviction of a misdemeanor or a guilty plea or a plea of nolo contendere to a misdemeanor
6 charge that has a rational nexus between the conduct and performance of the employee's job,
7 the conviction of a felony or a guilty plea or a plea of nolo contendere to a felony charge. Upon
8 the commencement of any fact-finding investigation involving conduct alleged to jeopardize the
9 health, safety, or welfare of students or the learning environment of other students, whether being
10 conducted internally, or in cooperation with police or Department of Health and Human

11 Resources, the affected employee shall be suspended, placed on administrative leave, or
12 reassigned to duties which do not involve direct interaction with pupils.

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

17 (c) The affected employee shall be given an opportunity, within five days of receiving the
18 written notice, to request, in writing, a level three hearing and appeals pursuant to the provisions
19 of §6C-2-1 *et seq.* of this code, except that dismissal for a finding of abuse or the conviction of a
20 felony or guilty plea or plea of *nolo contendere* to a felony charge is not by itself a grounds for a
21 grievance proceeding. An employee charged with the commission of a felony, a misdemeanor
22 with a rational nexus between the conduct and performance of the employee's job, or child abuse
23 shall be suspended, placed on administrative leave, or reassigned to duties which do not involve
24 direct interaction with pupils pending final disposition of the charges.

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

32 (e) It shall be the duty of any school principal to report any employee conduct alleged to
33 jeopardize the health, safety, or welfare of students or the learning environment of other students,
34 to the county superintendent within 24 hours of the allegation. Nothing in this subsection
35 supersedes §49-2-803 of this code or the provisions therein regarding mandated reporting of child
36 abuse and neglect.

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2022.

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Governor