

# **WEST VIRGINIA LEGISLATURE**

**2024 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 5650**

BY DELEGATES FOGGIN, GEARHEART, FOSTER, HECKERT,

ELLINGTON, STATLER, TONEY, HORNBY, AND YOUNG

[Passed March 7, 2024; 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 to prohibiting a suspended employee from being barred from attending public events on  
3 school property while serving the suspension; prohibiting a suspended employee who has  
4 a dependent family member from being barred from entering the school to exercise normal  
5 functions of a parent or guardian while suspended; and providing exceptions.

*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 Human Services in accordance with §49-1-1 *et seq.* of this code, the conviction of  
5 a misdemeanor or a guilty plea or a plea of nolo contendere to a misdemeanor charge that has a  
6 rational nexus between the conduct and performance of the employee's job, the conviction of a  
7 felony or a guilty plea or a plea of nolo contendere to a felony charge. Upon the commencement  
8 of any fact-finding investigation involving conduct alleged to jeopardize the health, safety, or  
9 welfare of students or the learning environment of other students, whether being conducted  
10 internally, or in cooperation with police or Department of Human Services, the affected employee  
11 shall be suspended, placed on administrative leave, or reassigned to duties which do not involve  
12 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.

46 (g) Notwithstanding any other provisions of law, a suspended employee may not be barred  
47 from attending public events on school property while serving the suspension, nor may a  
48 suspended employee who has a dependent child, grandchild, foster child, or other family member  
49 be barred from entering the school to exercise normal functions of a parent or guardian while  
50 suspended: *Provided*, That the suspended employ's presence does not jeopardize the health,  
51 safety, or welfare of students, employees, or visitors; impact the learning environment or the  
52 school-sponsored activity; prejudice an investigation or disciplinary proceedings involving the  
53 employee; violate an order of a court or any law; or threaten damage to property.



The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

.....  
*Clerk of the House of Delegates*

.....  
*Clerk of the Senate*

Originated in the House of Delegates.

In effect ninety days from passage.

.....  
*Speaker of the House of Delegates*

.....  
*President of the Senate*

\_\_\_\_\_

The within is ..... this the.....  
Day of ....., 2024.

.....  
*Governor*