

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

Senate Bill 614

BY SENATORS GRADY, ROBERTS, TAYLOR, RUCKER,

DEEDS, AND MAYNARD

[Originating in the Committee on Education; reported

on February 7, 2024]

1 A BILL to amend and reenact §18A-5-1 of the Code of West Virginia, 1931, as amended, relating
2 to elementary behavior intervention and safety; clarifying that nothing herein may be
3 construed to conflict with certain federal laws; and specifying requirements applicable to
4 when a grade kindergarten through six teacher in an elementary setting determines that
5 the behavior of a student is violent, threatening, or intimidating toward staff or peers, or
6 creates an unsafe learning environment, or impedes on other students' ability to learn in
7 a safe environment.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.

**§18A-5-1. Authority of teachers and other school personnel; exclusion of students having
infectious diseases; suspension or expulsion of disorderly students; corporal
punishment abolished.**

1 (a) The teacher shall stand in the place of the parent(s), guardian(s), or custodian(s) in
2 exercising authority over the school and has control of all students enrolled in the school from the
3 time they reach the school until they have returned to their respective homes, except where
4 transportation of students is provided, the driver in charge of the school bus or other mode of
5 transportation shall exercise such authority and control over the students while they are in transit
6 to and from the school.

7 (b) Subject to the rules of the state ~~Board of Education~~ board, the teacher shall exclude
8 from the school any student known to have, or who is suspected of having, any infectious disease,
9 or any student who has been exposed to any infectious disease and shall immediately notify the
10 proper health officer or medical inspector of the exclusion. Any student so excluded may not be
11 readmitted to the school until he or she has complied with all the requirements of the rules
12 governing those cases or has presented a certificate of health signed by the medical inspector or
13 other proper health officer.

14 (c) This subsection is subject to the requirements of subsections (j) and (k) of this section.

15 The teacher may exclude from his or her classroom or school bus any student who is guilty of
16 disorderly conduct; who in any manner interferes with an orderly educational process; who
17 behaves in a manner that obstructs the teaching or learning process of others in the classroom;
18 who threatens, abuses, or otherwise intimidates or attempts to intimidate a school employee or a
19 student; who willfully disobeys a school employee; or who uses abusive or profane language
20 directed at a school employee. Any student excluded shall be placed under the control of the
21 principal of the school or a designee. The excluded student may be admitted to the classroom or
22 school bus only when the principal, or a designee, provides written certification to the teacher that
23 the student may be readmitted and specifies the specific type of disciplinary action, if any, that
24 was taken. If the principal finds that disciplinary action is warranted, he or she shall provide written
25 and, if possible, telephonic notice of the action to the parent(s), guardian(s), or custodian(s). When
26 a student is excluded from a classroom or a school bus two times in one semester, and after
27 exhausting all reasonable methods of classroom discipline provided in the school discipline plan,
28 the student may be readmitted to the classroom or the school bus only after the principal, teacher,
29 and, if possible, the parent(s), guardian(s), or custodian(s) of the student have held a conference
30 to discuss the student's disruptive behavior patterns, and the teacher and the principal agree on
31 a course of discipline for the student and inform the parent(s), guardian(s), or custodian(s) of the
32 course of action. Thereafter, if the student's disruptive behavior persists, upon the teacher's
33 request, the principal may, to the extent feasible, transfer the student to another setting. The
34 Legislature finds that isolating students or placing them in alternative learning centers may be the
35 best setting for chronically disruptive students. The county board shall create more alternative
36 learning centers or expand its capacity for alternative placements, subject to funding, to correct
37 these students' behaviors so they can return to a regular classroom without engaging in further
38 disruptive behavior.

39 ~~(d) When a grade six through 12 teacher, excluding an elementary school teacher,~~
40 ~~determines that the behavior of the student is disorderly conduct, is interfering with an orderly~~
41 ~~educational process, or obstructs the teaching or learning process of others in the classroom:~~

42 ~~(1) The student may be excluded from that teacher's classroom and if excluded may not~~
43 ~~re-enter that teacher's classroom for at least the remainder of the instructional day;~~

44 ~~(2) If the student is excluded pursuant to subdivision (1) of this subsection;~~

45 ~~(A) The principal shall communicate with the teacher within 24 hours of the student being~~
46 ~~excluded from the teacher's classroom about the exclusion;~~

47 ~~(B) The teacher has 24 hours to create an electronic record and place the report of this~~
48 ~~action into the West Virginia Education Information System (WVEIS), without any repercussion to~~
49 ~~the teacher; and~~

50 ~~(C) If the student is removed from a classroom a total of three times in one month for one~~
51 ~~or more of the behaviors set forth in this subsection, the student shall receive as determined by~~
52 ~~the principal an in-school suspension, an out-of-school suspension, or may be considered for~~
53 ~~placement in an alternative learning center if one is available within the school district.~~

54 (d) For purposes of this section, nothing herein may be construed to be in conflict with the
55 provisions of the Individuals with Disabilities Education Act, 20 U.S.C. §1400, et seq. or Section
56 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794.

57 (e) The Legislature finds that suspension from school is not appropriate solely for a
58 student's failure to attend class. Therefore, a student may not be suspended from school solely
59 for not attending class. Other methods of discipline may be used for the student which may
60 include, but are not limited to, detention, extra class time, or alternative class settings.

61 (f) Corporal punishment of any student by a school employee is prohibited.

62 (g) Each county board is solely responsible for the administration of proper discipline in
63 the public schools of the county and shall adopt policies consistent with the provisions of this
64 section to govern disciplinary actions. These policies shall encourage the use of alternatives to

65 discipline practices, provide for the training of school personnel in alternatives to discipline
66 practices, and provide for encouraging the involvement of parent(s), guardian(s), or custodian(s)
67 in the maintenance of school discipline. To promote a teaching and learning environment free
68 from substantial classroom disturbances, each county board shall ensure that each school
69 implements a tier system policy, with teacher input, to provide a framework for student behaviors
70 and punishments. The policy shall be clear and concise with specific guidelines and examples.
71 The principal shall support the teacher in the discipline of the students if proper cause and
72 documentation is provided following the schoolwide discipline policy. The teacher may not be
73 reprimanded if their actions are legal and within the structure of the county board's policy for
74 student behavior and punishment. The county board policies shall also include an appeal
75 procedure whereby a teacher may appeal to the county superintendent if a school principal
76 refuses to allow the exclusion of a student from the classroom or if a teacher believes the school
77 principal has prematurely ended the exclusion of a student from the classroom. The county boards
78 shall provide for the immediate incorporation and implementation in schools of a preventive
79 discipline program which may include the responsible student program and a student involvement
80 program, which may include the peer mediation program, devised by the ~~West Virginia Board of~~
81 ~~Education~~ state board. Each county board may modify those programs to meet the particular
82 needs of the county. The county boards shall provide in-service training for teachers and
83 principals relating to assertive discipline procedures and conflict resolution. The county boards
84 also may establish cooperatives with private entities to provide middle educational programs,
85 which may include programs focusing on developing individual coping skills, conflict resolution,
86 anger control, self-esteem issues, stress management and decision making for students, and any
87 other program related to preventive discipline.

88 (h) For the purpose of this section:

89 (1) "Student" includes any child, youth, or adult who is enrolled in any instructional program
90 or activity conducted under board authorization and within the facilities of, or in connection with,

91 any program under public school direction: *Provided*, That, in the case of adults, the student–
92 teacher relationship shall terminate when the student leaves the school or other place of
93 instruction or activity;

94 (2) "Teacher" means all professional educators as defined in §18A-1-1 of this code and
95 includes the driver of a school bus or other mode of transportation; and

96 (3) "Principal" means the principal, assistant principal, vice principal, or the administrative
97 head of the school, or a professional personnel designee of the principal or the administrative
98 head of the school.

99 (i) Teachers shall exercise other authority and perform other duties prescribed for them by
100 law or by the rules of the state board not inconsistent with the provisions of this chapter and
101 Chapter 18 of this code.

102 (j) When a grade kindergarten through six teacher in an elementary setting determines
103 that the behavior of the student is violent, threatening, or intimidating toward staff or peers, or
104 creates an unsafe learning environment or impedes on other students' ability to learn in a safe
105 environment, the student shall be placed in a behavioral intervention program the county has
106 established, has partnered with another county board to establish, or has gained access to for its
107 students through an agreement with another county board for the purpose of addressing such
108 behaviors: *Provided*, That if the county board has not established, partnered with another county
109 board to establish, or gained access through an agreement with another county board to a
110 behavioral intervention program:

111 (1) The student shall be removed from the classroom immediately after the incident and
112 removed from the presence of other students for the remainder of the school day;

113 (2) The parents shall be notified and shall pick the student up from school preferably
114 immediately, but by the end of the day at the latest;

115 (3) The student may not ride the bus;

116 (4) If the student is not picked up by the end of the day, the principal or other district
117 employee may notify law enforcement;

118 (5) The student shall be suspended for the next one to three school days while alternative
119 learning accommodations are made;

120 (6) The student shall be evaluated under Child Find and shall be referred for a Functional
121 Behavior Analysis pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. §1400, et
122 seq.;

123 (7) The student shall receive his or her education through the alternative learning
124 accommodations and may not return to school until a risk assessment is done;

125 (8) After the risk assessment, the student's return to school shall be on a provisional basis
126 for a period of five to 10 days. If another incident as described in this subsection occurs within
127 that time frame, the student shall be placed in an alternative learning environment for the
128 remainder of the semester or school year;

129 (9) If the virtual school option is the agreed upon method of alternative education, then the
130 student can begin the program at such time the decision is made; and

131 (10) Whether a student's behavior falls under the requirements of this subsection and
132 whether the student is to be placed in an alternative learning environment for the remainder of
133 the semester or school year pursuant to subdivision (6) of this subsection shall be at the discretion
134 of the student's classroom teacher and principal or vice principal. If the principal or vice principal
135 disagree with the teacher, the teacher may provide documentation and appeal to the county
136 superintendent.

137 (k) When a grade six through 12 teacher, excluding an elementary school teacher,
138 determines that the behavior of the student is disorderly conduct, is interfering with an orderly
139 educational process, or obstructs the teaching or learning process of others in the classroom:

140 (1) The student may be excluded from that teacher's classroom and, if excluded, may not
141 re-enter that teacher's classroom for at least the remainder of the instructional day; and

142 (2) If the student is excluded pursuant to subdivision (1) of this subsection:

143 (A) The principal shall communicate with the teacher within 24 hours of the student being
144 excluded from the teacher's classroom about the exclusion;

145 (B) The teacher has 24 hours to create an electronic record and place the report of this
146 action into the West Virginia Education Information System without any repercussion to the
147 teacher; and

148 (C) If the student is removed from a classroom a total of three times in one month for one
149 or more of the behaviors set forth in this subsection, the student shall receive, as determined by
150 the principal, an in-school suspension, an out-of-school suspension, or may be considered for
151 placement in an alternative learning center if one is available within the school district.