WEST VIRGINIA CODE: §18A-3-6

§18A-3-6. Grounds for revocation or suspension of certificates; other authorized actions by state superintendent; required reporting by county superintendents; and recalling certificates for correction.

(a) The state superintendent may, after 10 days' notice and upon proper evidence, revoke or suspend the certificates of any teacher for any of the following causes: Intemperance; untruthfulness; cruelty; immorality; the conviction of a felony or a guilty plea or a plea of no contest to a felony charge; the conviction, guilty plea, or plea of no contest to any charge involving sexual misconduct with a minor or a student; or for using fraudulent, unapproved, or insufficient credit to obtain the certificates: *Provided*, That in order for any conduct of a teacher involving intemperance; cruelty; immorality; or using fraudulent, unapproved, or insufficient credit to obtain the certificates to constitute grounds for the revocation of the certificates of the teacher, there must be a rational nexus between the conduct of the teacher and the performance of his or her job. The state superintendent shall also have the authority to limit certificates, issue letters of admonishment, or enter into consent agreements requiring specific training in order for a teacher to maintain a certificate. The state superintendent may designate the West Virginia Commission for Professional Teaching Standards or members thereof to conduct hearings on revocations or certificate denials and make recommendations for action by the state superintendent. The state superintendent may issue subpoenas and subpoenas duces tecum to obtain testimony and documents to aid in the investigation of allegations against any person subject to licensure by the state superintendent.

(b) The state superintendent may automatically suspend the certificate held by a teacher, as defined by §18-1-1(g) of this code, or any individual holding a certificate granted pursuant to §18A-3-2a of this code, in any of the following circumstances:

(1) The teacher or certificate holder is charged or indicted for an offense under §61-8D-3 or §61-8D-5 of this code or comparable statute in any other state;

(2) The teacher or certificate holder is charged or indicted with any criminal offense that requires the teacher to register as a sex offender;

(3) The teacher or certificate holder is charged or indicted with any criminal offense which has as an element delivery or distribution of a controlled substance; (4) The teacher or certificate holder is charged or indicted for any offense under the provisions of §61-2-1 of this code or under any law of the United States or any other state for an offense which has the same elements as those offenses described in §61-2-1 of this code; or

(5) A petition has been filed pursuant to §49-4-601 of this code alleging that the teacher or certificate holder has committed abuse of a child.

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(c) If any such charge or indictment resulting in suspension pursuant to subsection (b) of this section is dismissed by the court in which it is pending, if the teacher or certificate holder is acquitted of such charge, or if a petition filed pursuant to §49-4-601 and resulting in suspension pursuant to subsection (b) of this section is dismissed by the court in which it is pending, the teacher's or certificate holder's certification shall be reinstated unless otherwise prohibited by law.

(d) The state superintendent shall automatically revoke the certificate held by a teacher, as defined by §18-1-1(g) of this code, or any individual holding a certificate granted pursuant to §18A-3-2a of this code, in any of the following circumstances:

(1) The teacher or certificate holder pleads guilty to or is convicted under §61-8D-3 or §61-8D-5 of this code or comparable statute in any other state;

(2) The teacher or certificate holder pleads guilty to or is convicted of any criminal offense that requires the teacher to register as a sex offender;

(3) The teacher or certificate holder pleads guilty to or is convicted of any criminal offense which has as an element delivery or distribution of a controlled substance;

(4) The teacher or certificate holder pleads guilty to or is convicted under the provisions of §61-2-1 of this code or has been so convicted under any law of the United States or any other state for an offense which has the same elements as those offenses described in §61-2-1 of this code; or

(5) A court of competent jurisdiction has adjudicated the teacher or certificate holder as having committed abuse of a child under §49-4-601 of this code.

(e) If any conviction resulting in automatic revocation pursuant to subsection (d) of this section is overturned by any court of this state or the United States, or if such adjudication of abuse of a child pursuant to §49-4-601 of this code and resulting in automatic revocation pursuant to subsection (d) of this section is overturned by the Supreme Court of Appeals of West Virginia, the teacher's or certificate holder's certification shall be reinstated unless otherwise prohibited by law.

(f) A teacher, as defined by §18-1-1(g) of this code, and including any individual holding a certificate granted pursuant to §18A-3-2a of this code, shall maintain a professional relationship with all students at all times, both in and out of the classroom. Following a hearing as provided in subsection (a) of this section, any teacher found to have committed any act of sexual abuse of a student or minor, or to have engaged in inappropriate sexual conduct with a student or minor; committed an act of cruelty to children or an act of child endangerment or solicited, encouraged, engaged in or consummated an inappropriate relationship with any student, minor, or individual; exploited a student by engaging in any of the aforementioned illegal or inappropriate conduct which then escalated into a relationship with the exploited student within 12 months of that student's graduation; or engaged in

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grooming a student or minor shall have his or her certificate revoked for a period of time not less than five years. For the purposes of this subsection, "grooming a student or minor" means befriending and establishing an emotional connection with a student or minor, which may include the family of the student or minor, to lower the student's or minor's inhibitions with the objective of committing sexual abuse, child trafficking, child prostitution, the production of child pornography, or any other offense for which a certificate shall be revoked under this subsection.

(g) Any county superintendent, public school principal, or public charter school administrator who knows of any acts on the part of any teacher for which a certificate may be revoked or for which other action may be taken in accordance with this section shall report this, together with all the facts and evidence, to the state superintendent for such action as in the state superintendent's judgment may be proper.

(h) If a certificate has been granted through an error, oversight, or misinformation, the state superintendent may recall the certificate and make such corrections as will conform to the requirements of law and the state board.

(i) The state superintendent shall maintain a public database of individuals who have had adverse action taken against their teaching certificate by the state superintendent. Individuals whose certificate has been revoked by the state superintendent are not eligible to be employed by a county board unless the individual's certificate is subsequently reinstated by the state superintendent.

(j) This section applies to all public school teachers whether employed by a county board or the governing board of a public charter school.

(k) The state superintendent shall periodically ensure that county boards are acting in compliance with this section.

(l) The state board may propose legislative rules pursuant to §29A-3B-1 *et seq*. of this code that are necessary to implement the provisions of this section.

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