WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1983

ENROLLED
Com. Sub. for
HOUSE BILL No. 1039.

(By Mrs. Rogers & Mr. Whitlow)

Passed March 12, 1983
In Effect Ninety Days From Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 1039

(By Mrs. Rogers and Mr. Whitlow)

[Passed March 12, 1983; in effect ninety days from passage.]

AN ACT to amend and reenact section one, article five, chapter eighteen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to authority, rights and responsibilities of school personnel; authority of school principals to administer corporal punishment; requiring the state board of education and county boards of education to adopt rules and regulations regarding corporal punishment; governing and permitting the administration of corporal punishment by open hand and paddle; and limiting imposition of corporal punishment.

Be it enacted by the Legislature of West Virginia:

That section one, article five, chapter eighteen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.

§18A-5-1. Authority of teachers and other school personnel; exclusion of pupils having infectious diseases; suspension or expulsion of disorderly pupils; authority of principals to administer corporal punishment.

1 The teacher shall stand in the place of the parent or
guardian in exercising authority over the school, and shall have control of all pupils enrolled in the school from the time they reach the school until they have returned to their respective homes, except that where transportation of pupils is provided, the driver in charge of the school bus or other mode of transportation shall exercise such authority and control over the children while they are in transit to and from the school. Subject to the rules of the state board of education, the teacher shall exclude from the school any pupil or pupils known to have or suspected of having any infectious disease, or any pupil or pupils who have been exposed to such disease, and shall immediately notify the proper health officer, or medical inspector, of such exclusion. Any pupil so excluded shall not be readmitted to the school until such pupil has complied with all the requirements of the rules governing such cases, or has presented a certificate of health signed by the medical inspector or other proper health officer. The teacher shall have authority to suspend any pupil guilty of disorderly, refractory, indecent or immoral conduct, and the district board of education may expel or exclude any such pupil if, on investigation, the conduct of such pupil is found to be detrimental to the progress and the general conduct of the school.

The principal shall have the authority to administer moderate corporal punishment by means of the open hand or a paddle subject to the following restrictions:

(1) Corporal punishment should be administered only as a last resort after use of alternative methods of discipline have failed to correct the inappropriate pupil behavior;

(2) Pupils are informed of the rules and regulations that govern the school;

(3) The pupil is informed of the school rule or rules allegedly violated and is given an opportunity to explain his or her behavior prior to the administration of corporal punishment;

(4) Punishment is administered without anger or malice. The amount of physical force used is not wanton or in excess
of the offense, is suitable to the pupil's age and mental and physical conditions and is applied without discrimination;

(5) The punishment is administered by the school principal or by a specific designee authorized by the principal to administer such punishment and in either case in the presence of another adult professional employee and not in the presence of another pupil;

(6) The punishment is administered by use of the open hand or a paddle to the buttocks;

(7) A report which includes a description of the pupil's conduct prompting the use of corporal punishment and the name of the witness is attempted to be made informally by telephone or notice sent with the child to the parent or guardian at least twelve hours prior to administration of the corporal punishment and is made orally in the school office by the end of the school day and a written report is filed in the school office within twenty-four hours of the incident;

(8) The parent or guardian of the pupil is notified in writing of each instance of corporal punishment within three school days;

(9) Each school principal shall be responsible for the maintenance of discipline in his school;

(10) Corporal punishment shall not be administered to a pupil: (a) identified as handicapped, learning, hearing, mentally, or behaviorally disabled; or (b) whose parent has petitioned in writing to the school principal that corporal punishment not be administered to the pupil and attached a certificate from a physician that by reason of a physical or emotional condition the pupil should not be subjected to corporal punishment; or (c) if medical information available to school authorities indicates that the pupil should not be subjected to corporal punishment.

The West Virginia board of education and county boards of education shall adopt policies consistent with the provisions of this section encouraging the use of alternatives to corporal punishment, providing for the training of school personnel in
alternatives to corporal punishment and for the involvement of parents and guardians in the maintenance of school discipline.

For the purpose of this section: (1) “Pupil” shall include any child, youth, or adult who is enrolled in any instructional program or activity conducted under board authorization and within the facilities of or in connection with any program under public school direction: Provided, That in the case of adults the pupil-teacher relationship shall terminate when the pupil leaves the school or other place of instruction or activity;

(2) “teacher” shall mean all professional educators as defined in section one, article one, chapter eighteen-a of this code and shall include the driver of a school bus or other mode of transportation.

Teachers shall exercise such other authority and perform such other duties as may be prescribed for them by law or by the rules of the state board of education not inconsistent with the provisions of this chapter and chapter eighteen.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Donald Anello
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

The within is approved this the 29th day of March, 1983.

Governor