WEST VIRGINIA LEGISLATURE
Regular Session, 2001

ENROLLED

SENATE BILL NO. 439

(By Senator Mitchell)

PASSED April 13, 2001

In Effect 90 days from Passage
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(BY SENATOR MITCHELL)

[Passed April 13, 2001; 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 ending, as discipline, suspension from school as punishment for not attending class.

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; corporal punishment abolished.

(a) The teacher shall stand in the place of the parent(s), guardian(s) or custodian(s) 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.

(b) 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.

(c) The teacher shall have authority to exclude from his or her classroom or school bus any pupil who is guilty of disorderly conduct; who in any manner interferes with an orderly educational process; who threatens, abuses or otherwise intimidates or attempts to intimidate a school employee or a pupil; or who willfully disobeys a school employee; or who uses abusive or profane language directed at a school employee. Any pupil excluded shall be placed under the control of the principal of the school or a designee. The excluded pupil may be admitted to the classroom or school bus only when the principal, or a designee, provides written certification to the teacher that the pupil may be readmitted and specifies the specific type of disciplinary action, if any, which was taken. If the principal finds that disciplinary action is warranted, he or she shall provide written and, if possible, telephonic notice of such action to the parent(s), guardian(s) or custodian(s). When a teacher excludes the same pupil from his or her classroom or from a school bus three times in one school
year, and after exhausting all reasonable methods of
classroom discipline provided in the school discipline plan,
the pupil may be readmitted to the teacher's classroom
only after the principal, teacher and, if possible, the
parent(s), guardian(s) or custodian(s) of the pupil have
held a conference to discuss the pupil's disruptive behavior
patterns, and the teacher and the principal agree on a
course of discipline for the pupil and inform the parent(s),
guardian(s) or custodian(s) of the course of action. There-
after, if the pupil's disruptive behavior persists, upon the
teacher's request, the principal may, to the extent feasible,
transfer the pupil to another setting.

(d) The Legislature finds that suspension from school is
not appropriate solely for a pupil's failure to attend class.
Therefore, no pupil may be suspended from school solely
for not attending class. Other methods of discipline may be
used for the pupil which may include, but are not limited
to, detention, extra class time or alternative class settings.

(e) Corporal punishment of any pupil by a school
employee is prohibited.

(f) 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 parent(s), guardi-

an(s) or custodian(s) in the maintenance of school disci-
pline. The county boards of education shall provide for
the immediate incorporation and implementation in the
schools of a preventive discipline program which may
include the responsible student program and a student
involvement program which may include the peer mediation
program, devised by the West Virginia board of
education. Each board may modify such programs to meet
the particular needs of the county. The county boards
shall provide in-service training for teachers and principal
s relating to assertive discipline procedures and conflict
resolution. The county boards of education may also establish cooperatives with private entities to provide middle educational programs which may include programs focusing on developing individual coping skills, conflict resolution, anger control, self-esteem issues, stress management and decisionmaking for students and any other program related to preventive discipline.

(g) For the purpose of this section: (1) "Pupil or student" 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; and (2) "teacher" shall mean all professional educators as defined in section one, article one of this chapter and shall include the driver of a school bus or other mode of transportation.

(h) 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 of this code.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 30th Day of April, 2001.

Governor