WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4562

BY DELEGATES KESSINGER, BURKHAMMER, MAYNOR,

KEATON, AND PINSON

[Passed March 9, 2022; in effect ninety days from passage.]
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[Passed March 9, 2022; in effect ninety days from passage.]
AN ACT to amend and reenact §18A-2-8 of the Code of West Virginia, 1931, as amended, relating
generally to the suspension and dismissal of school personnel by board and the appeals
process; requiring upon commencement of any fact-finding investigation involving conduct
alleged to jeopardize the health, safety, or welfare of students or the learning environment
of other students, the affected employee to be suspended, placed on administrative leave,
or reassigned to duties which do not involve direct interaction with pupils; requiring an
employee charged with the commission of a felony, a misdemeanor with a rational nexus
between the conduct and performance of the employee's job, or child abuse to be
suspended, placed on administrative leave, or reassigned to duties which do not involve
direct interaction with pupils pending final disposition; and making it the duty of any school
principal to report any employee conduct alleged to jeopardize the health, safety, or
welfare of students or the learning environment of other students, to the county
superintendent within 24 hours.

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.
(a) Notwithstanding any other provisions of law, a board may suspend or dismiss any
person in its employment at any time for: Immorality, incompetency, cruelty, insubordination,
intemperance, willful neglect of duty, unsatisfactory performance, a finding of abuse by the
Department of Health and Human Resources in accordance with §49-1-1 et seq. of this code, the
conviction of a misdemeanor or a guilty plea or a plea of nolo contendere to a misdemeanor
charge that has a rational nexus between the conduct and performance of the employee's job,
the conviction of a felony or a guilty plea or a plea of nolo contendere to a felony charge. Upon
the commencement of any fact-finding investigation involving conduct alleged to jeopardize the
health, safety, or welfare of students or the learning environment of other students, whether being
conducted internally, or in cooperation with police or Department of Health and Human
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Resources, the affected employee shall be suspended, placed on administrative leave, or reassigned to duties which do not involve direct interaction with pupils.

(b) A charge of unsatisfactory performance shall not be made except as the result of an employee performance evaluation pursuant to §18A-2-12 of this code. The charges shall be stated in writing served upon the employee within two days of presentation of the charges to the board.

(c) The affected employee shall be given an opportunity, within five days of receiving the written notice, to request, in writing, a level three hearing and appeals pursuant to the provisions of §6C-2-1 et seq. of this code, except that dismissal for a finding of abuse or the conviction of a felony or guilty plea or plea of nolo contendere to a felony charge is not by itself a grounds for a grievance proceeding. An employee charged with the commission of a felony, a misdemeanor with a rational nexus between the conduct and performance of the employee’s job, or child abuse shall be suspended, placed on administrative leave, or reassigned to duties which do not involve direct interaction with pupils pending final disposition of the charges.

(d) A county board of education has the duty and authority to provide a safe and secure environment in which students may learn and prosper; therefore, it may take necessary steps to suspend or dismiss any person in its employment at any time should the health, safety, or welfare of students be jeopardized or the learning environment of other students has been impacted. A county board shall complete an investigation of an employee that involves evidence that the employee may have engaged in conduct that jeopardizes the health, safety, or welfare of students despite the employee’s resignation from employment prior to completion of the investigation.

(e) It shall be the duty of any school principal to report any employee conduct alleged to jeopardize the health, safety, or welfare of students or the learning environment of other students, to the county superintendent within 24 hours of the allegation. Nothing in this subsection supersedes §49-2-803 of this code or the provisions therein regarding mandated reporting of child abuse and neglect.
(f) It shall be the duty of any county superintendent to report any employee suspended or dismissed, or resigned during the course of an investigation of the employee’s alleged misconduct, in accordance with this section, including the rationale for the suspension or dismissal, to the state superintendent within seven business days of the suspension, dismissal, or resignation. The state superintendent shall maintain a database of all individuals suspended or dismissed for jeopardizing the health, safety, or welfare of students, or for impacting the learning environment of other students. The database shall also include the rationale for the suspension or dismissal. The database shall be confidential and shall only be accessible to county human resource directors, county superintendents, and the state superintendent of schools.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within bill approved this the 30th day of March, 2022.

Governor
PRESENTED TO THE GOVERNOR

MAR 17 2022

Time: 3:10 PM