

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2890

BY DELEGATES GEARHEART, ELLINGTON, WESTFALL,
STORCH, BRIDGES, FOSTER, BUTLER, HOUSEHOLDER,
COOPER, DEAN AND HECKERT

[Passed March 11, 2023; in effect ninety days from passage.]

FILED

2023 MAR 28 P 4: 54

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1 AN ACT to amend and reenact §18A-5-1 of the Code of West Virginia, 1931, as amended, relating
2 to authority of teachers and other school personnel for discipline of students; allowing
3 student that behaves in a manner that obstructs the teaching or learning process of others
4 in the classroom to be excluded; limiting application of certain discipline provisions to
5 grades six through 12 and excluding application to elementary schools; mandating
6 minimum duration of exclusion for certain behaviors; requiring principal to communicate
7 with teacher within 24 hours about exclusion for certain behaviors; establishing time limit
8 for teacher to report exclusion for certain behaviors to the West Virginia Education
9 Information System; providing consequences for student removed for certain behaviors
10 three times in one month; requiring county board policies to encourage the use of
11 alternatives to discipline practices; requiring each county school board to ensure that each
12 school implements a tier system policy to provide a framework for student behaviors and
13 punishments; requiring principal to support the teacher in discipline of the students under
14 certain conditions; prohibiting teacher from being reprimanded under certain conditions;
15 and requiring procedure for teachers to appeal certain exclusion related actions of
16 principal.

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, the teacher shall exclude from the
8 school any student known to have, or who is suspected of having, any infectious disease, or any
9 student who has been exposed to any infectious disease and shall immediately notify the proper
10 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) The teacher, may exclude from his or her classroom or school bus any student who is
15 guilty of disorderly conduct; who in any manner interferes with an orderly educational process;
16 who behaves in a manner that obstructs the teaching or learning process of others in the
17 classroom; who threatens, abuses or otherwise intimidates or attempts to intimidate a school
18 employee or a student; who willfully disobeys a school employee; or who uses abusive or profane
19 language directed at a school employee. Any student excluded shall be placed under the control
20 of the principal of the school or a designee. The excluded student may be admitted to the
21 classroom or school bus only when the principal, or a designee, provides written certification to
22 the teacher that the student may be readmitted and specifies the specific type of disciplinary
23 action, if any, that was taken. If the principal finds that disciplinary action is warranted, he or she
24 shall provide written and, if possible, telephonic notice of the action to the parent(s), guardian(s),
25 or custodian(s). When a student is excluded from a classroom or a school bus two times in one
26 semester, and after exhausting all reasonable methods of classroom discipline provided in the
27 school discipline plan, the student may be readmitted to the classroom or the school bus only
28 after the principal, teacher and, if possible, the parent(s), guardian(s), or custodian(s) of the
29 student have held a conference to discuss the student's disruptive behavior patterns, and the
30 teacher and the principal agree on a course of discipline for the student and inform the parent(s),

31 guardian(s), or custodian(s) of the course of action. Thereafter, if the student's disruptive behavior
32 persists, upon the teacher's request, the principal may, to the extent feasible, transfer the student
33 to another setting. The Legislature finds that isolating students or placing them in alternative
34 learning centers may be the best setting for chronically disruptive students. The county board
35 shall create more alternative learning centers or expand its capacity for alternative placements,
36 subject to funding, to correct these students' behaviors so they can return to a regular classroom
37 without engaging in further disruptive behavior.

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

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

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

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

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

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

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

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

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

82 esteem issues, stress management and decision making for students, and any other program
83 related to preventive discipline.

84 (h) For the purpose of this section:

85 (1) "Student" includes any child, youth or adult who is enrolled in any instructional program
86 or activity conducted under board authorization and within the facilities of, or in connection with,
87 any program under public school direction: *Provided*, That, in the case of adults, the student-
88 teacher relationship shall terminate when the student leaves the school or other place of
89 instruction or activity;

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

92 (3) "Principal" means the principal, assistant principal, vice principal or the administrative
93 head of the school, or a professional personnel designee of the principal or the administrative
94 head of the school.

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

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

Steve Harris
.....
Clerk of the House of Delegates

Joe Lavin
.....
Clerk of the Senate

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

FILED

Originated in the House of Delegates.

In effect ninety days from passage.

Don Hoehle
.....
Speaker of the House of Delegates

[Signature]
.....
President of the Senate

The within is approved this the 28th
Day of March 2023.

James Justice
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 27 2023

Time 2:52 pm