

# WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Enrolled

Committee Substitute

for

**Senate Bill 199**

BY SENATORS GRADY, THORNE, AND WILLIS

[Passed April 3, 2025; in effect 90 days from passage (July 2, 2025)]

FILED

2025 APR 15 P 4:19

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

SB199



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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 addressing student behavior issues; modifying provisions pertaining to student  
3 disorderly conduct, interference with an orderly educational process, obstruction of the  
4 teaching or learning process of others, threat, abuse, intimidation, attempted intimidation,  
5 willful disobedience of a school employee, or abusive or profane language directed at a  
6 school employee; adding partnering with a licensed behavioral health agency as any  
7 option for county boards to use to correct student behaviors; requiring students in  
8 alternative learning centers, in alternative placements, or with a licensed behavioral health  
9 agency to meet regularly with a school social worker, behavior specialist, board certified  
10 behavior analyst, school psychologist, or other qualified employee with expertise in the  
11 behavioral area to address certain behavioral and mental health concerns and to assist in  
12 developing a transition plan back to the classroom and with that transition; clarifying that  
13 nothing herein may be construed to conflict with certain federal laws; requiring that county  
14 board discipline action policies provide that school social workers, behavior specialists,  
15 board certified behavior analysts, school psychologists, and other qualified employees  
16 with expertise in the behavioral area provide the training of school personnel in  
17 alternatives to discipline practices; defining terms; specifying protocol for when a grade  
18 kindergarten through six teacher, or a pre-K teacher at a publicly funded pre-K facility, in  
19 an elementary setting determines that the behavior of the student is violent, threatening,  
20 or intimidating toward staff or peers, or creates an unsafe learning environment or impedes  
21 on the other students' ability to learn in a safe environment; specifying protocol for when  
22 a county board does not have access to a behavioral intervention program; requiring State  
23 Board of Education rule which adopts a statewide disciplinary policy; and allowing school  
24 counselors, school social workers, or school psychologists to provide behavioral support.

*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, the teacher shall exclude from the school any  
8     student known to have, or who is suspected of having, any infectious disease, or any student who  
9     has been exposed to any infectious disease and shall immediately notify the proper health officer  
10    or medical inspector of the exclusion. Any student so excluded may not be readmitted to the  
11    school until he or she has complied with all the requirements of the rules governing those cases  
12    or has presented a certificate of health signed by the medical inspector or other proper health  
13    officer.

14          (c) This subsection is subject to the requirements of subsections (j) through (p) of this  
15    section. The teacher may exclude from his or her classroom or school bus any student who is  
16    guilty of disorderly conduct; who in any manner interferes with an orderly educational process;  
17    who behaves in a manner that obstructs the teaching or learning process of others in the  
18    classroom; who threatens, abuses, or otherwise intimidates or attempts to intimidate a school  
19    employee or a student; who willfully disobeys a school employee; or who uses abusive or profane  
20    language directed at a school employee. Any student excluded shall be placed under the control  
21    of the principal of the school or a designee. The excluded student may be admitted to the  
22    classroom or school bus only after a school counselor, school social worker, school psychologist,

23 or behavior interventionist develops a behavioral plan for re-entry to the classroom for the student  
24 and when the principal, or a designee, provides written certification to the teacher that the student  
25 may be readmitted and specifies the specific type of disciplinary action, if any, that was taken. If  
26 the principal finds that disciplinary action is warranted, he or she shall provide written and, if  
27 possible, telephonic notice of the action to the parent(s), guardian(s), or custodian(s). When a  
28 student is excluded from a classroom or a school bus two times in one semester, and after  
29 exhausting all reasonable methods of classroom discipline provided in the school discipline plan,  
30 the student may be readmitted to the classroom or the school bus only after the principal, teacher,  
31 school counselor, or school social worker, and, if possible, the parent(s), guardian(s), or  
32 custodian(s) of the student have held a conference to discuss the student's disruptive behavior  
33 patterns, a school social worker, behavior specialist, board certified behavior analyst, school  
34 psychologist, or other qualified employee with expertise in the behavioral area establishes and  
35 implements a behavioral plan, and the teacher and the principal agree on a course of discipline  
36 for the student and inform the parent(s), guardian(s), or custodian(s) of the course of action.  
37 Thereafter, if the student's disruptive behavior persists, upon the teacher's request, the principal  
38 may, to the extent feasible, transfer the student to another setting. The Legislature finds that  
39 isolating students or placing them in alternative learning centers or licensed behavioral health  
40 agencies may be the best setting for chronically disruptive students. The county board shall create  
41 more alternative learning centers, expand its capacity for alternative placements, or partner with  
42 a licensed behavioral health agency, subject to funding, to correct these students' behaviors so  
43 they can return to a regular classroom without engaging in further disruptive behavior. Students  
44 in alternative learning centers, in alternative placements, or with a licensed behavioral health  
45 agency shall meet regularly with a school social worker, behavior specialist, board certified  
46 behavior analyst, school psychologist, or other qualified employee with expertise in the behavioral  
47 area to address the behavioral and mental health concerns associated with the referral to the

48 alternative learning center and to assist in developing a transition plan back to the classroom and  
49 assist with that transition.

50 (d) Notwithstanding anything in this section to the contrary, nothing herein may be  
51 construed to conflict with or be applied to conflict with the provisions of the Individuals with  
52 Disabilities Education Act, 20 U.S.C. §1400, *et seq.* or Section 504 of the Rehabilitation Act of  
53 1973, 29 U.S.C. §794.

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

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

59 (g) Each county board is solely responsible for the administration of proper discipline in  
60 the public schools of the county and shall adopt policies consistent with the provisions of this  
61 section to govern disciplinary actions. These policies shall encourage the use of alternatives to  
62 discipline practices, provide for the training of school personnel by school social workers, behavior  
63 specialists, board certified behavior analysts, school psychologists, and other qualified employees  
64 with expertise in the behavioral area in alternatives to discipline practices, and provide for  
65 encouraging the involvement of parent(s), guardian(s), or custodian(s) in the maintenance of  
66 school discipline. To promote a teaching and learning environment free from substantial  
67 classroom disturbances, each county board shall ensure that each school implements a tier  
68 system policy, with teacher input, to provide a framework for student behaviors and punishments.  
69 The policy shall be clear and concise with specific guidelines and examples. The principal shall  
70 support the teacher in the discipline of the students if proper cause and documentation is provided  
71 following the schoolwide discipline policy. The teacher may not be reprimanded if their actions  
72 are legal and within the structure of the county board's policy for student behavior and  
73 punishment. The county board policies shall also include an appeal procedure whereby a teacher

may appeal to the county superintendent if a school principal refuses to allow the exclusion of a student from the classroom or if a teacher believes the school principal has prematurely ended the exclusion of a student from the classroom. The county boards shall provide for the immediate incorporation and implementation in 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 state board. Each county board may modify those programs to meet the particular needs of the county. The county boards shall provide in-service training for teachers and principals relating to assertive discipline procedures and conflict resolution. The county boards also may establish cooperatives with private entities to provide middle educational programs or behavior intervention 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.

(h) For the purpose of this section:

"Principal" means the principal, assistant principal, vice principal, or the administrative head of the school, or a professional personnel designee of the principal or the administrative head of the school.

"School counselor" has the same meaning as provided for in §18-5-18b.

"School social worker" has the same meaning as "social worker" as provided for in §18-1-1.

"School psychologist" has the same meaning as "licensed school psychologist" as provided for in §30-21-2.

"Student" includes 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 student-teacher relationship shall terminate when the student leaves the school or other place of instruction or activity;

100 "Teacher" means all professional educators as defined in §18A-1-1 of this code and  
101 includes the driver of a school bus or other mode of transportation.

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

105 (j) When a grade kindergarten through six teacher in an elementary setting, or pre-K  
106 teacher at a publicly funded pre-K facility, determines that the behavior of the student is violent,  
107 threatening, or intimidating toward staff or peers, or creates an unsafe learning environment or  
108 impedes on other students' ability to learn in a safe environment, the student shall be referred to  
109 the school counselor, school social worker, school psychologist, or behavior interventionist who  
110 shall conduct a functional behavioral assessment to assess underlying causes of the student's  
111 behavior. The school counselor, school social worker, school psychologist, or behavior  
112 interventionist shall prioritize and use evidence-based interventions and supports to establish a  
113 behavioral plan for the student. The behavioral plan shall be followed for a period of two weeks.  
114 After that, a re-evaluation of the student's behavior shall be conducted and if adequate progress  
115 is being made, the behavioral plan shall continue. If the evaluation does not show adequate  
116 progress, the principal, teacher, and school counselor, school social worker, school psychologist,  
117 or behavior interventionist shall determine whether the plan needs to be changed. If the plan is  
118 amended and, after another period of two weeks, the student still has not shown adequate  
119 progress then the student shall be placed in a behavioral intervention program or with a licensed  
120 behavioral health agency the county has established, has partnered with another county board to  
121 establish, or has gained access to for its students through an agreement with another county  
122 board for the purpose of addressing such behaviors.

123 (k) "Violent, threatening, or intimidating" behavior by the student is defined as a behavior  
124 that seriously and materially interferes with a teacher's ability to communicate effectively with the  
125 students in a class, with the ability of the student's classmates to learn, or with the operation of

school or a school-sponsored activity. Violent, threatening, or intimidating behaviors are further defined as those actions causing or intending to cause physical harm to the teacher, principal, school service personnel, or the students in the classroom setting.

(l) If the county board has not established, partnered with another county board to establish, or gained access through an agreement with another county board to a behavioral intervention program:

(1) The student shall be removed from the classroom immediately after the incident and removed from the presence of other students for the remainder of the school day;

(2) The parents shall be notified and shall pick the student up from school preferably immediately, but by the end of the day at the latest, upon which the student shall be considered suspended from school;

(3) If a student has to ride the bus home, that student shall ride the bus under the supervision of a principal, vice principal, or an individual designated by the principal to ensure the safety of the student, the bus driver, and other students on the bus;

(4) The student shall continue to be suspended for the next one to three school days while alternative learning accommodations are made;

(5) The student may be evaluated under Child Find and may be referred for a functional behavior analysis pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. §1400, *et seq.*: *Provided*, That the student shall be referred to the student assistance team (SAT), 504 team, or IEP team at that school – whichever is most appropriate for that student – for an immediate intervention, or manifestation if the student has an IEP;

(6) The student shall receive his or her education through the alternative learning accommodations and may not return to school until a risk assessment is done;

(7) After the risk assessment, the student's return to school shall be on a provisional basis for a period of five to 10 days. If another incident as described in this subsection occurs within that time frame, or repeated instances occur following the time frame, the student shall be subject

to the provisions of §18A-5-1a for purposes of expulsion: *Provided*, That the expulsion shall not continue through two continuous semesters: *Provided further*, That the teacher may come to the expulsion hearing in instances where a student shows violent, threatening, or intimidating behavior;

(8) If the virtual school option is the agreed upon method of alternative education, then the student can begin the program at such time the decision is made; and

(9) Whether a student's behavior falls under the requirements of this subsection and whether the student is to be placed in an alternative learning environment for the remainder of the semester or school year pursuant to subdivision (6) of this subsection shall be at the discretion of the student's classroom teacher and principal or vice principal. If the principal or vice principal disagree with the actions of the teacher, the principal or vice principal may provide written documentation on their disagreement, the teacher may provide written documentation on their disagreement, and both the principal/vice principal or the teacher may appeal to the county superintendent.

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

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

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

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

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

177 (C) If the student is removed from a classroom a total of three times in one month for one  
178 or more of the behaviors set forth in this subsection, the student shall receive, as determined by  
179 the principal, an in-school suspension, an out-of-school suspension, or may be considered for  
180 placement in an alternative learning center or with a licensed behavioral health agency if one is  
181 available within the school district.

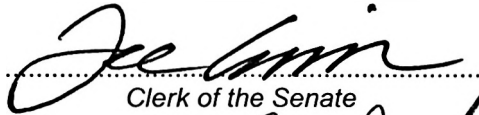
182 (n) For purposes of subsection (m) of this section, "disorderly or obstructive" behavior by  
183 the student is defined as a behavior that seriously and materially interferes with a teacher's ability  
184 to communicate effectively with the students in a class, with the ability of the student's classmates  
185 to learn, or with the operation of school or a school-sponsored activity.

186 (o) The State Board of Education shall promulgate a rule pursuant to §29A-3B-1 *et seq.*  
187 which adopts a statewide disciplinary policy: *Provided*, That if a county or school in this state has  
188 a behavioral interventionist, they may apply for a waiver from the statewide disciplinary policy  
189 upon a showing of continued positive educational progress from the existing county or school  
190 disciplinary policy currently in effect. "Positive educational progress" is defined as data that  
191 demonstrates a decrease in violent, threatening, intimidating, disorderly, and obstructive  
192 behavior. Such positive educational progress shall also demonstrate that students are maintaining  
193 the necessary educational benchmarks otherwise provided for in this code.

194 (p) For purposes of this section, school counselors, school social workers, school  
195 psychologists, or behavior interventionists may provide behavioral support to ensure the  
196 effectiveness of this section.



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

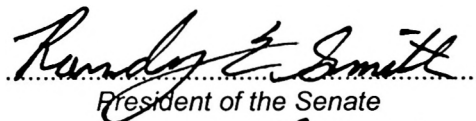
  
Clerk of the Senate

  
Clerk of the House of Delegates

FILED  
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OFFICE OF THE CLERK  
SECRETARY OF STATE

Originated in the Senate.

In effect 90 days from passage.

  
President of the Senate

  
Speaker of the House of Delegates

The within is approved this the 15<sup>th</sup>  
Day of April, 2025.

  
Governor



PRESENTED TO THE GOVERNOR

APR 8 2025

Time 9:10am