

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2890

By Delegates Gearheart, Ellington, Westfall, Storch,
Bridges, Foster, Butler, Householder, Cooper, Dean,
and Heckert

[Introduced January 20, 2023; Referred to the
Committee on Education]

1 A BILL 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; teacher's
 3 responsibility to make a report after sending a student to the principal's office for disorderly
 4 conduct; removal of student from classroom when disruptive; and requiring each county
 5 school board to implement a tier system policy, with teacher input, to provide a framework
 6 for student behaviors and punishments.

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 that 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 suspected of having any infectious disease, or any student
 9 who has been exposed to any infectious disease, and shall immediately notify the proper health
 10 officer 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 or
 12 has presented a certificate of health signed by the medical inspector or other proper health officer.

13 (c) The teacher may exclude from his or her classroom or school bus any student who is
 14 guilty of disorderly conduct; who in any manner interferes with an orderly educational process;
 15 who threatens, abuses or otherwise intimidates or attempts to intimidate a school employee or a

16 student; who willfully disobeys a school employee; or who uses abusive or profane language
17 directed at a school employee. Any student excluded shall be placed under the control of the
18 principal of the school or a designee. The excluded student may be admitted to the classroom or
19 school bus only when the principal, or a designee, provides written certification to the teacher that
20 the student may be readmitted and specifies the specific type of disciplinary action, if any, that was
21 taken. If the principal finds that disciplinary action is warranted, he or she shall provide written and,
22 if possible, telephonic notice of the action to the parent(s), guardian(s) or custodian(s). When a
23 student is excluded from a classroom or a school bus two times in one semester, and after
24 exhausting all reasonable methods of classroom discipline provided in the school discipline plan,
25 the student may be readmitted to the classroom or the school bus only after the principal, teacher
26 and, if possible, the parent(s), guardian(s) or custodian(s) of the student have held a conference to
27 discuss the student's disruptive behavior patterns, and the teacher and the principal agree on a
28 course of discipline for the student and inform the parent(s), guardian(s) or custodian(s) of the
29 course of action. Thereafter, if the student's disruptive behavior persists, upon the teacher's
30 request, the principal may, to the extent feasible, transfer the student to another setting. The
31 Legislature finds that isolating students or placing them in alternative learning centers may be the
32 best setting for chronically disruptive students. The county board shall create more alternative
33 learning centers or expand its capacity for alternative placements, subject to funding, to correct
34 these students' behaviors so they can return to a regular classroom without engaging in further
35 disruptive behavior. When a teacher sends a student to the principal's office for disorderly conduct,
36 the teacher has 24 hours to create an electronic record and place the report on this action into
37 West Virginia Education Information System (WVEIS), without any repercussion.

38 If the behavior of the student is determined to be disruptive to the classroom environment,
39 the student shall be removed from the classroom and may not re-enter the classroom for the rest
40 of the day. This removal shall count as an in-school suspension. If the behavior of the student is
41 disruptive enough to be removed from the classroom three times total in one month, the student

42 shall receive an out-of-school suspension.

43 If the behavior of the student is considered to be a personality clash and that the student
44 may learn better in a different classroom environment, the principal may remove the student
45 immediately and protect the integrity of the classroom.

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

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

51 (f) Each county board is solely responsible for the administration of proper discipline in the
52 public schools of the county and shall adopt policies consistent with the provisions of this section
53 to govern disciplinary actions. These policies shall encourage the use of alternatives to corporal
54 punishment, providing for the training of school personnel in alternatives to corporal punishment
55 and for the involvement of parent(s), guardian(s) or custodian(s) in the maintenance of school
56 discipline. Each county board shall implement a tier system policy, with teacher input, to provide a
57 framework for student behaviors and punishments. The policy shall be clear and concise with
58 specific guidelines and examples. The principal shall support the teacher in discipline of the
59 students if proper cause and documentation is provided following the schoolwide discipline policy
60 The teacher may not be reprimanded if their actions are legal and within the structure of the school
61 board's policy for student behavior and punishment. The county boards shall provide for the
62 immediate incorporation and implementation in the schools of a preventive discipline program
63 which may include the responsible student program and a student involvement program which
64 may include the peer mediation program, devised by the West Virginia Board of Education. Each
65 county board may modify those programs to meet the particular needs of the county. The county
66 boards shall provide in-service training for teachers and principals relating to assertive discipline
67 procedures and conflict resolution. The county boards also may establish cooperatives with

68 private entities to provide middle educational programs which may include programs focusing on
69 developing individual coping skills, conflict resolution, anger control, self-esteem issues, stress
70 management and decision making for students and any other program related to preventive
71 discipline.

72 (g) For the purpose of this section:

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

78 (2) "Teacher" means all professional educators as defined in section one, article one of this
79 chapter and includes the driver of a school bus or other mode of transportation; and

80 (3) "Principal" means the principal, assistant principal, vice principal or the administrative
81 head of the school or a professional personnel designee of the principal or the administrative head
82 of the school.

83 (h) Teachers shall exercise other authority and perform other duties prescribed for them by
84 law or by the rules of the state board not inconsistent with the provisions of this chapter and
85 chapter 18 of this code.

NOTE: The purpose of this bill is to modify the authority of teachers and other school personnel for discipline of students that requires removal of a student from the classroom; and requiring each county school board to implement a tier system policy, with teacher input, to provide a framework for student behaviors and punishments.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.