

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 2890**

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

[Originating in the Committee on Education;

January 25, 2023]



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; creating  
3 offence of behavior that is disruptive to classroom environment; teacher's responsibility to  
4 make a report after excluding student from classroom for certain offenses; excluding  
5 student from classroom for certain offenses and making exclusion an in-school  
6 suspension; providing penalty for repeat offenses; providing permissible action in event of  
7 personality clash ; and requiring each county school board to implement a tier system  
8 policy, with teacher input, to provide a framework 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 behaves in a manner that is disruptive to the classroom environment; who threatens, abuses  
16 or otherwise intimidates or attempts to intimidate a school employee or a student; who willfully  
17 disobeys a school employee; or who uses abusive or profane language directed at a school  
18 employee. Any student excluded shall be placed under the control of the principal of the school or  
19 a designee. The excluded student may be admitted to the classroom or school bus only when the  
20 principal, or a designee, provides written certification to the teacher that the student may be  
21 readmitted and specifies the specific type of disciplinary action, if any, that was taken. If the  
22 principal finds that disciplinary action is warranted, he or she shall provide written and, if possible,  
23 telephonic notice of the action to the parent(s), guardian(s) or custodian(s). When a student is  
24 excluded from a classroom or a school bus two times in one semester, and after exhausting all  
25 reasonable methods of classroom discipline provided in the school discipline plan, the student  
26 may be readmitted to the classroom or the school bus only after the principal, teacher and, if  
27 possible, the parent(s), guardian(s) or custodian(s) of the student have held a conference to  
28 discuss the student's disruptive behavior patterns, and the teacher and the principal agree on a  
29 course of discipline for the student and inform the parent(s), guardian(s) or custodian(s) of the  
30 course of action. Thereafter, if the student's disruptive behavior persists, upon the teacher's  
31 request, the principal may, to the extent feasible, transfer the student to another setting. The  
32 Legislature finds that isolating students or placing them in alternative learning centers may be the  
33 best setting for chronically disruptive students. The county board shall create more alternative  
34 learning centers or expand its capacity for alternative placements, subject to funding, to correct  
35 these students' behaviors so they can return to a regular classroom without engaging in further  
36 disruptive behavior. When a student is excluded from the classroom by the teacher for disorderly  
37 conduct, interfering with an orderly educational process or behaving in a manner that is disruptive  
38 to the classroom environment, the teacher has 24 hours to create an electronic record and place

39 the report on this action into West Virginia Education Information System (WVEIS), without any  
40 repercussion.

41 When a teacher determines that the behavior of the student is disorderly conduct,  
42 interfering with an orderly educational process or disruptive to the classroom environment, the  
43 student shall be excluded from that teacher's classroom and may not re-enter the classroom for  
44 the remainder of the instructional day. This removal shall count as an in-school suspension. If the  
45 behavior of the student is disruptive enough to be removed from a classroom three times total in  
46 one month, the student shall receive an out-of-school suspension or may be considered for  
47 placement in an alternative learning center if one is available within the county school system.

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

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

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

56 (f) Each county board is solely responsible for the administration of proper discipline in the  
57 public schools of the county and shall adopt policies consistent with the provisions of this section  
58 to govern disciplinary actions. These policies shall encourage the use of alternatives to corporal  
59 punishment, providing for the training of school personnel in alternatives to corporal punishment  
60 and for the involvement of parent(s), guardian(s) or custodian(s) in the maintenance of school  
61 discipline. Each county board shall implement a tier system policy, with teacher input, to provide a  
62 framework for student behaviors and punishments. The policy shall be clear and concise with  
63 specific guidelines and examples. The principal shall support the teacher in the discipline of the  
64 students if proper cause and documentation is provided following the schoolwide discipline policy.

65 The teacher may not be reprimanded if their actions are legal and within the structure of the county  
66 board's policy for student behavior and punishment. The county boards shall provide for the  
67 immediate incorporation and implementation in the schools of a preventive discipline program  
68 which may include the responsible student program and a student involvement program which  
69 may include the peer mediation program, devised by the West Virginia Board of Education. Each  
70 county board may modify those programs to meet the particular needs of the county. The county  
71 boards shall provide in-service training for teachers and principals relating to assertive discipline  
72 procedures and conflict resolution. The county boards also may establish cooperatives with  
73 private entities to provide middle educational programs which may include programs focusing on  
74 developing individual coping skills, conflict resolution, anger control, self-esteem issues, stress  
75 management and decision making for students and any other program related to preventive  
76 discipline.

77 (g) For the purpose of this section:

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

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

85 (3) "Principal" means the principal, assistant principal, vice principal or the administrative  
86 head of the school or a professional personnel designee of the principal or the administrative head  
87 of the school.

88 (h) Teachers shall exercise other authority and perform other duties prescribed for them by  
89 law or by the rules of the state board not inconsistent with the provisions of this chapter and  
90 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.