WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5650

By Delegates Foggin, Gearheart, Foster, Heckert,

Ellington, Statler, Toney, Hornby, and Young

[Introduced February 13, 2024; Referred to the

Committee on Education]

A BILL to amend and reenact §18A-2-8 of the Code of West Virginia, 1931, amended, relating to
permitting a suspended employee who presents no clear and present danger of disruption,
disorder, riot of the event, or an immediate threat to public safety to attend public events on
school property while serving their suspension; and permitting the suspended employee
who has children or grandchildren attending the school to exercise normal functions of a
parent or guardian with regards to the school while suspended.

Be it enacted by the Legislature of West Virginia:

ARTICLE SCHOOL 2. PERSONNEL. §18A-2-8. Suspension and dismissal of school personnel by board; appeal. 1 (a) Notwithstanding any other provisions of law, a board may suspend or dismiss any 2 person in its employment at any time for: Immorality, incompetency, cruelty, insubordination, 3 intemperance, willful neglect of duty, unsatisfactory performance, a finding of abuse by the 4 Department of Human Services in accordance with §49-1-1 et seq. of this code, the conviction of a 5 misdemeanor or a guilty plea or a plea of nolo contendere to a misdemeanor charge that has a 6 rational nexus between the conduct and performance of the employee's job, the conviction of a 7 felony or a guilty plea or a plea of nolo contendere to a felony charge. Upon the commencement of

8 any fact-finding investigation involving conduct alleged to jeopardize the health, safety, or welfare 9 of students or the learning environment of other students, whether being conducted internally, or in 10 cooperation with police or Department of Human Services, the affected employee shall be 11 suspended, placed on administrative leave, or reassigned to duties which do not involve direct 12 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

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§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.

36 (f) It shall be the duty of any county superintendent to report any employee suspended or 37 dismissed, or resigned during the course of an investigation of the employee's alleged 38 misconduct, in accordance with this section, including the rationale for the suspension or 39 dismissal, to the state superintendent within seven business days of the suspension, dismissal, or 40 resignation. The state superintendent shall maintain a database of all individuals suspended or 41 dismissed for jeopardizing the health, safety, or welfare of students, or for impacting the learning 42 environment of other students. The database shall also include the rationale for the suspension or 43 dismissal. The database shall be confidential and shall only be accessible to county human

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- 44 resource directors, county superintendents, and the state superintendent of schools.
- 45 (g) Notwithstanding any other provisions of law, a suspended employee who presents no
- 46 clear and present danger of disruption, disorder, riot of the event, or an immediate threat to public
- 47 safety, may not be barred from attending public events on school property while serving their
- 48 suspension, nor may a suspended employee who has children or grandchildren be barred from
- 49 attending the school to exercise normal functions of a parent or guardian while suspended.

NOTE: The purpose of this bill is to permit a suspended employee who presents no clear and present danger of disruption, disorder, riot of the event, or an immediate threat to public safety to attend public events on school property while serving their suspension; and permitting the suspended employee who has children or grandchildren attending the school to exercise normal functions of a parent or guardian with regards to the school while suspended.

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