

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

House Bill 5650

By Delegates Foggin, Gearheart, Foster, Heckert,

Ellington, Statler, Toney, Hornby, and Young

[Originating in the Committee on Education;

Reported on February 15, 2024]

1 A BILL to amend and reenact §18A-2-8 of the Code of West Virginia, 1931, as amended, relating
2 to permitting a suspended employee to attend public events on school property and enter
3 the school under certain circumstances.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. SCHOOL 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.

13 (b) A charge of unsatisfactory performance shall not be made except as the result of an
14 employee performance evaluation pursuant to §18A-2-12 of this code. The charges shall be stated
15 in writing served upon the employee within two days of presentation of the charges to the board.

16 (c) The affected employee shall be given an opportunity, within five days of receiving the
17 written notice, to request, in writing, a level three hearing and appeals pursuant to the provisions of
18 §6C-2-1 *et seq.* of this code, except that dismissal for a finding of abuse or the conviction of a
19 felony or guilty plea or plea of nolo contendere to a felony charge is not by itself a grounds for a
20 grievance proceeding. An employee charged with the commission of a felony, a misdemeanor with

21 a rational nexus between the conduct and performance of the employee's job, or child abuse shall
22 be suspended, placed on administrative leave, or reassigned to duties which do not involve direct
23 interaction with pupils pending final disposition of the charges.

24 (d) A county board of education has the duty and authority to provide a safe and secure
25 environment in which students may learn and prosper; therefore, it may take necessary steps to
26 suspend or dismiss any person in its employment at any time should the health, safety, or welfare
27 of students be jeopardized or the learning environment of other students has been impacted. A
28 county board shall complete an investigation of an employee that involves evidence that the
29 employee may have engaged in conduct that jeopardizes the health, safety, or welfare of students
30 despite the employee's resignation from employment prior to completion of the investigation.

31 (e) It shall be the duty of any school principal to report any employee conduct alleged to
32 jeopardize the health, safety, or welfare of students or the learning environment of other students,
33 to the county superintendent within 24 hours of the allegation. Nothing in this subsection
34 supersedes §49-2-803 of this code or the provisions therein regarding mandated reporting of child
35 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
44 resource directors, county superintendents, and the state superintendent of schools.

45 (g) Notwithstanding any other provisions of law, a suspended employee may not be barred
46 from attending public events on school property while serving the suspension, nor may a

47 suspended employee who has children or grandchildren be barred from entering the school to
48 exercise normal functions of a parent or guardian while suspended: *Provided*, That the conduct
49 underlying the suspension does not present a danger of disruption, disorder, or threat to public
50 safety or to the learning process.