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WEST VIRGINIA LEGISLATURE

Regular Session, 2001

ENROLLED

SENATE BILL NO. 439

(By Senator Mitchell **)**

PASSED April 13, 2001

In Effect 90 days from **Passage**

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Senate Bill No. 439

(BY SENATOR MITCHELL)

[Passed April 13, 2001; in effect ninety days from passage.]

AN ACT to amend and reenact section one, article five, chapter eighteen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to ending, as discipline, suspension from school as punishment for not attending class.

Be it enacted by the Legislature of West Virginia:

That section one, article five, chapter eighteen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.

§18A-5-1. Authority of teachers and other school personnel; exclusion of pupils having infectious diseases; suspension or expulsion of disorderly pupils; corporal punishment abolished.

- 1 (a) The teacher shall stand in the place of the parent(s),
2 guardian(s) or custodian(s) in exercising authority over the

3 school and shall have control of all pupils enrolled in the
4 school from the time they reach the school until they have
5 returned to their respective homes, except that where
6 transportation of pupils is provided, the driver in charge
7 of the school bus or other mode of transportation shall
8 exercise such authority and control over the children while
9 they are in transit to and from the school.

10 (b) Subject to the rules of the state board of education,
11 the teacher shall exclude from the school any pupil or
12 pupils known to have or suspected of having any infectious
13 disease, or any pupil or pupils who have been exposed to
14 such disease, and shall immediately notify the proper
15 health officer or medical inspector of such exclusion. Any
16 pupil so excluded shall not be readmitted to the school
17 until such pupil has complied with all the requirements of
18 the rules governing such cases or has presented a certifi-
19 cate of health signed by the medical inspector or other
20 proper health officer.

21 (c) The teacher shall have authority to exclude from his
22 or her classroom or school bus any pupil who is guilty of
23 disorderly conduct; who in any manner interferes with an
24 orderly educational process; who threatens, abuses or
25 otherwise intimidates or attempts to intimidate a school
26 employee or a pupil; or who willfully disobeys a school
27 employee; or who uses abusive or profane language
28 directed at a school employee. Any pupil excluded shall be
29 placed under the control of the principal of the school or
30 a designee. The excluded pupil may be admitted to the
31 classroom or school bus only when the principal, or a
32 designee, provides written certification to the teacher that
33 the pupil may be readmitted and specifies the specific type
34 of disciplinary action, if any, which was taken. If the
35 principal finds that disciplinary action is warranted, he or
36 she shall provide written and, if possible, telephonic notice
37 of such action to the parent(s), guardian(s) or custodian(s).
38 When a teacher excludes the same pupil from his or her
39 classroom or from a school bus three times in one school

40 year, and after exhausting all reasonable methods of
41 classroom discipline provided in the school discipline plan,
42 the pupil may be readmitted to the teacher's classroom
43 only after the principal, teacher and, if possible, the
44 parent(s), guardian(s) or custodian(s) of the pupil have
45 held a conference to discuss the pupil's disruptive behavior
46 patterns, and the teacher and the principal agree on a
47 course of discipline for the pupil and inform the parent(s),
48 guardian(s) or custodian(s) of the course of action. There-
49 after, if the pupil's disruptive behavior persists, upon the
50 teacher's request, the principal may, to the extent feasible,
51 transfer the pupil to another setting.

52 (d) The Legislature finds that suspension from school is
53 not appropriate solely for a pupil's failure to attend class.
54 Therefore, no pupil may be suspended from school solely
55 for not attending class. Other methods of discipline may be
56 used for the pupil which may include, but are not limited
57 to, detention, extra class time or alternative class settings.

58 (e) Corporal punishment of any pupil by a school
59 employee is prohibited.

60 (f) The West Virginia board of education and county
61 boards of education shall adopt policies consistent with
62 the provisions of this section encouraging the use of
63 alternatives to corporal punishment, providing for the
64 training of school personnel in alternatives to corporal
65 punishment and for the involvement of parent(s), guard-
66 ian(s) or custodian(s) in the maintenance of school disci-
67 pline. The county boards of education shall provide for
68 the immediate incorporation and implementation in the
69 schools of a preventive discipline program which may
70 include the responsible student program and a student
71 involvement program which may include the peer media-
72 tion program, devised by the West Virginia board of
73 education. Each board may modify such programs to meet
74 the particular needs of the county. The county boards
75 shall provide in-service training for teachers and princi-
76 pals relating to assertive discipline procedures and conflict

77 resolution. The county boards of education may also
78 establish cooperatives with private entities to provide
79 middle educational programs which may include programs
80 focusing on developing individual coping skills, conflict
81 resolution, anger control, self-esteem issues, stress man-
82 agement and decisionmaking for students and any other
83 program related to preventive discipline.

84 (g) For the purpose of this section: (1) "Pupil or stu-
85 dent" shall include any child, youth or adult who is
86 enrolled in any instructional program or activity con-
87 ducted under board authorization and within the facilities
88 of or in connection with any program under public school
89 direction: *Provided*, That, in the case of adults, the pupil-
90 teacher relationship shall terminate when the pupil leaves
91 the school or other place of instruction or activity; and (2)
92 "teacher" shall mean all professional educators as defined
93 in section one, article one of this chapter and shall include
94 the driver of a school bus or other mode of transportation.

95 (h) Teachers shall exercise such other authority and
96 perform such other duties as may be prescribed for them
97 by law or by the rules of the state board of education not
98 inconsistent with the provisions of this chapter and
99 chapter eighteen of this code.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Carly Olson
.....
Chairman Senate Committee

J. P. ...
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Parrell Ekblom
.....
Clerk of the Senate

Lucy ...
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this the *30th*
Day of *April*, 2001.

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 4/20/01

Time 5:35 pm