West Virginia Legislature

2024 Regular Session

Introduced

House Bill 4776

By Delegates Gearheart, Ellington, Smith, Maynor, E.

Pritt, Kump, Hornby, Riley, Toney, Heckert, and

Cooper

[Introduced January 16, 2024; Referred

to the Committee on Education]
A BILL to amend and reenact §18A-5-1 of the Code of West Virginia, 1931, as amended, relating
to adding elementary schools into school disciplinary measures added during the 2023
Regular Session of the Legislature.

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.

(a) The teacher shall stand in the place of the parent(s), guardian(s), or custodian(s) in
exercising authority over the school and has control of all students enrolled in the school from the
time they reach the school until they have returned to their respective homes, except where
transportation of students is provided, the driver in charge of the school bus or other mode of
transportation shall exercise such authority and control over the students while they are in transit
to and from the school.

(b) Subject to the rules of the state Board of Education, the teacher shall exclude from the
school any student known to have, or who is suspected of having, any infectious disease, or any
student who has been exposed to any infectious disease and shall immediately notify the proper
health officer or medical inspector of the exclusion. Any student so excluded may not be
readmitted to the school until he or she has complied with all the requirements of the rules
governing those cases or has presented a certificate of health signed by the medical inspector or
other proper health officer.

(c) The teacher, may exclude from his or her classroom or school bus any student who is
guilty of disorderly conduct; who in any manner interferes with an orderly educational process;
who behaves in a manner that obstructs the teaching or learning process of others in the
classroom; who threatens, abuses or otherwise intimidates or attempts to intimidate a school
employee or a student; who willfully disobeys a school employee; or who uses abusive or profane
language directed at a school employee. Any student excluded shall be placed under the control of
the principal of the school or a designee. The excluded student may be admitted to the classroom
or school bus only when the principal, or a designee, provides written certification to the teacher
that the student may be readmitted and specifies the specific type of disciplinary action, if any, that
was taken. If the principal finds that disciplinary action is warranted, he or she shall provide written
and, if possible, telephonic notice of the action to the parent(s), guardian(s), or custodian(s). When
a student is excluded from a classroom or a school bus two times in one semester, and after
exhausting all reasonable methods of classroom discipline provided in the school discipline plan,
the student may be readmitted to the classroom or the school bus only after the principal, teacher
and, if possible, the parent(s), guardian(s), or custodian(s) of the student have held a conference
to discuss the student's disruptive behavior patterns, and the teacher and the principal agree on a
course of discipline for the student and inform the parent(s), guardian(s), or custodian(s) of the
course of action. Thereafter, if the student's disruptive behavior persists, upon the teacher's
request, the principal may, to the extent feasible, transfer the student to another setting. The
Legislature finds that isolating students or placing them in alternative learning centers may be the
best setting for chronically disruptive students. The county board shall create more alternative
learning centers or expand its capacity for alternative placements, subject to funding, to correct
these students' behaviors so they can return to a regular classroom without engaging in further
disruptive behavior.

(d) When a grade six through 12 teacher, excluding an elementary school teacher,
determines that the behavior of the student is disorderly conduct, is interfering with an orderly
educational process, or obstructs the teaching or learning process of others in the classroom:

(1) The student may be excluded from that teacher's classroom and if excluded may not re-
enter that teacher's classroom for at least the remainder of the instructional day;

(2) If the student is excluded pursuant to subdivision (1) of this subsection;
(A) The principal shall communicate with the teacher within 24 hours of the student being excluded from the teacher's classroom about the exclusion;

(B) The teacher has 24 hours to create an electronic record and place the report of this action into the West Virginia Education Information System (WVEIS), without any repercussion to the teacher; and

(C) If the student is removed from a classroom a total of three times in one month for one or more of the behaviors set forth in this subsection, the student shall receive as determined by the principal an in-school suspension, an out-of-school suspension, or may be considered for placement in an alternative learning center if one is available within the school district.

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

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

(g) Each county board is solely responsible for the administration of proper discipline in the public schools of the county and shall adopt policies consistent with the provisions of this section to govern disciplinary actions. These policies shall encourage the use of alternatives to discipline practices, provide for the training of school personnel in alternatives to discipline practices, and provide for encouraging the involvement of parent(s), guardian(s) or custodian(s) in the maintenance of school discipline. To promote a teaching and learning environment free from substantial classroom disturbances, each county board shall ensure that each school implements a tier system policy, with teacher input, to provide a framework for student behaviors and punishments. The policy shall be clear and concise with specific guidelines and examples. The principal shall support the teacher in the discipline of the students if proper cause and documentation is provided following the schoolwide discipline policy. The teacher may not be reprimanded if their actions are legal and within the structure of the county board's policy for
student behavior and punishment. The county board policies shall also include an appeal procedure whereby a teacher may appeal to the county superintendent if a school principal refuses to allow the exclusion of a student from the classroom or if a teacher believes the school principal has prematurely ended the exclusion of a student from the classroom. The county boards shall provide for the immediate incorporation and implementation in schools of a preventive discipline program which may include the responsible student program and a student involvement program, which may include the peer mediation program, devised by the West Virginia Board of Education. Each county board may modify those programs to meet the particular needs of the county. The county boards shall provide in-service training for teachers and principals relating to assertive discipline procedures and conflict resolution. The county boards also may establish cooperatives with private entities to provide middle educational programs, which may include programs focusing on developing individual coping skills, conflict resolution, anger control, self-esteem issues, stress management and decision making for students, and any other program related to preventive discipline.

(h) For the purpose of this section:

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

(2) "Teacher" means all professional educators as defined in §18A-1-1 of this code and includes the driver of a school bus or other mode of transportation; and

(3) "Principal" means the principal, assistant principal, vice principal or the administrative head of the school, or a professional personnel designee of the principal or the administrative head of the school.
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(i) Teachers shall exercise other authority and perform other duties prescribed for them by law or by the rules of the state board not inconsistent with the provisions of this chapter and chapter 18 of this code.

(j) This section shall apply to children enrolled in elementary schools in this state.

NOTE: The purpose of this bill is to include elementary schools in the school disciplinary section as amended during the 2023 Regular Session of the Legislature.

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