

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 2515**

By Delegates Ellington, Statler, Hornby, Crouse,

Willis, Dittman, Toney, and Campbell

[Originating on February 25, 2025 in the Committee  
on Education]

1 A BILL to amend and reenact §18A-5-1 of the Code of West Virginia, 1931, as amended, relating  
2 to elementary behavior intervention and safety; clarifying that nothing herein may be  
3 construed to conflict with certain federal laws; specifying requirements applicable to when  
4 a grade kindergarten through six teacher in an elementary setting determines that the  
5 behavior of a student is violent, threatening, or intimidating toward staff or peers, or creates  
6 an unsafe learning environment, or impedes on other students' ability to learn in a safe  
7 environment; providing for definitions; setting forth a disciplinary procedure for students in  
8 grades six through twelve; requiring the State Board to adopt a statewide disciplinary  
9 policy, to be approved by the Legislature; and providing for a waiver from the disciplinary  
10 policy in certain circumstances.

*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 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~~ board, the teacher shall exclude  
8 from the school any student known to have, or who is suspected of having, any infectious disease,  
9 or any student who has been exposed to any infectious disease and shall immediately notify the  
10 proper health officer or medical inspector of the exclusion. Any student so excluded may not be  
11 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) This subsection is subject to the requirements of subsections (k) through (p) of this section. 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~~

(d) For purposes of this section, nothing herein may be construed to be in conflict with the provisions of the Individuals with Disabilities Education Act, 20 U.S.C. §1400, et seq. or Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794.

(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~~ state board. 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.

(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) When a grade kindergarten through six teacher in an elementary setting determines that the behavior of the student is violent, threatening, or intimidating toward staff or peers, or creates an unsafe learning environment or impedes on other students' ability to learn in a safe environment, the student shall be placed in a behavioral intervention program the county has established, has partnered with another county board to establish, or has gained access to for its students through an agreement with another county board for the purpose of addressing such behaviors:

(k) "Violent, threatening, or intimidating" behavior by the student is defined as a behavior that seriously and materially interferes with a teacher's ability to communicate effectively with the students in a class, with the ability of the student's classmates to learn, or with the operation of school or a school-sponsored activity. Violent, threatening, or intimidating behaviors are further defined as those actions causing or intending to cause physical harm, to the teacher, principal, school service personnel, or the students in the classroom setting. For purposes of removal from the classroom under this section, "violent, threatening, or intimidating" behavior does not include

normal or anticipated actions by the student commensurate with his or her respective grade level.

(l) If the county board has not established, partnered with another county board to establish, or gained access through an agreement with another county board to a behavioral intervention program:

(1) The student shall be removed from the classroom immediately after the incident and removed from the presence of other students for the remainder of the school day;

(2) The parents shall be notified and shall pick the student up from school preferably immediately, but by the end of the day at the latest, upon which the student shall be considered suspended from school;

(3) If a student has to ride the bus home, that student shall ride the bus under the supervision of a principal, vice principal, or an individual designated by the principal to ensure the safety of the student, the bus driver, and other students on the bus;

(4) If the student is not picked up by the end of the day, the principal or other district employee may notify law enforcement;

(5) The student shall continue to be suspended for the next one to three school days while alternative learning accommodations are made;

(6) The student may be evaluated under Child Find and may be referred for a Functional Behavior Analysis pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. §1400, et seq.: *Provided*, That the student shall be referred to the student assistance team (SAT), 504 team, or IEP team at that school – whichever is most appropriate for that student – for an immediate intervention, or manifestation if the student has an IEP;

(7) The student shall receive his or her education through the alternative learning accommodations and may not return to school until a risk assessment is done;

(8) After the risk assessment, the student's return to school shall be on a provisional basis for a period of five to 10 days. If another incident as described in this subsection occurs within that time frame, or repeated instances occur following the time frame, the student shall be subject to

the provisions of §18A-5-1a for purposes of expulsion: *Provided*, That the expulsion shall not continue through two continuous semesters: *Provided further*, That the teacher may come to the expulsion hearing in instances where a student shows violent, threatening, or intimidating behavior;

(9) If the virtual school option is the agreed upon method of alternative education, then the student can begin the program at such time the decision is made; and

(10) Whether a student's behavior falls under the requirements of this subsection and whether the student is to be placed in an alternative learning environment for the remainder of the semester or school year pursuant to subdivision (6) of this subsection shall be at the discretion of the student's classroom teacher and principal or vice principal. If the principal or vice principal disagree with the actions of the teacher, the principal or vice principal may provide written documentation on their disagreement, the teacher may provide written documentation on their disagreement, and both the principal/vice principal or the teacher may appeal to the county superintendent.

(m) 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; and

(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 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.

(n) For purposes of subsection (m) above, "disorderly or obstructive" behavior by the student is defined as a behavior that seriously and materially interferes with a teacher's ability to communicate effectively with the students in a class, with the ability of the student's classmates to learn, or with the operation of school or a school-sponsored activity. For purposes of removal from the classroom under this section, "disorderly or obstructive" behavior does not include normal or anticipated actions by the student commensurate with his or her respective grade level.

(o) The State Board of Education shall adopt a statewide disciplinary policy, to be approved by the Legislature: *Provided*, That if a county or school in this state has a behavioral interventionist, they may apply for a waiver from the statewide disciplinary policy upon a showing of continued positive educational progress from the existing county or school disciplinary policy currently in effect. "Positive educational progress" is defined as data that demonstrates a decrease in violent, threatening, intimidating, disorderly and obstructive behavior. Such positive educational progress shall also demonstrate that students are maintaining the necessary educational benchmarks otherwise provided for in this code.

(p) For purposes of §18-2E-10 of this code, classroom aides may provide behavioral support to ensure the effectiveness of this section.

NOTE: The purpose of this bill is to address elementary behavior intervention and safety; specify requirements applicable to when a grade kindergarten through six teacher in an elementary setting determines that the behavior of a student is violent, threatening, or intimidating toward staff or peers or creates an unsafe learning environment or impedes on other students' ability to learn in a safe environment; providing for behavior intervention and safety for students in grades six through twelve; and provide that nothing herein may be construed to be in conflict with the Individuals with Disabilities Education Act. Finally, the bill requires the State Board to adopt a statewide disciplinary policy, to be approved by the Legislature with the opportunity of a waiver of the policy in certain circumstances.

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