

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 199

By Senator Grady

[Introduced February 12, 2025; 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 elementary behavior intervention and safety; clarifying that nothing herein may be construed to conflict with certain federal laws; and specifying 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.

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) This subsection is subject to the requirements of subsections (j) and (k) 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

67 maintenance of school discipline. To promote a teaching and learning environment free from
68 substantial classroom disturbances, each county board shall ensure that each school implements
69 a tier system policy, with teacher input, to provide a framework for student behaviors and
70 punishments. The policy shall be clear and concise with specific guidelines and examples. The
71 principal shall support the teacher in the discipline of the students if proper cause and
72 documentation is provided following the schoolwide discipline policy. The teacher may not be
73 reprimanded if their actions are legal and within the structure of the county board's policy for
74 student behavior and punishment. The county board policies shall also include an appeal
75 procedure whereby a teacher may appeal to the county superintendent if a school principal
76 refuses to allow the exclusion of a student from the classroom or if a teacher believes the school
77 principal has prematurely ended the exclusion of a student from the classroom. The county boards
78 shall provide for the immediate incorporation and implementation in schools of a preventive
79 discipline program which may include the responsible student program and a student involvement
80 program, which may include the peer mediation program, devised by the ~~West Virginia Board of~~
81 ~~Education~~ state board. Each county board may modify those programs to meet the particular
82 needs of the county. The county boards shall provide in-service training for teachers and principals
83 relating to assertive discipline procedures and conflict resolution. The county boards also may
84 establish cooperatives with private entities to provide middle educational programs, which may
85 include programs focusing on developing individual coping skills, conflict resolution, anger control,
86 self-esteem issues, stress management and decision making for students, and any other program
87 related to preventive discipline.

88 (h) For the purpose of this section:

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

93 instruction or activity;

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

96 (3) "Principal" means the principal, assistant principal, vice principal or the administrative
97 head of the school, or a professional personnel designee of the principal or the administrative
98 head of the school.

99 (i) Teachers shall exercise other authority and perform other duties prescribed for them by
100 law or by the rules of the state board not inconsistent with the provisions of this chapter and
101 chapter 18 of this code.

102 (j) When a grade kindergarten through six teacher in an elementary setting determines that
103 the behavior of the student is violent, threatening, or intimidating toward staff or peers, or creates
104 an unsafe learning environment or impedes on other students' ability to learn in a safe
105 environment, the student shall be placed in a behavioral intervention program the county has
106 established, has partnered with another county board to establish, or has gained access to for its
107 students through an agreement with another county board for the purpose of addressing such
108 behaviors: *Provided*, That if the county board has not established, partnered with another county
109 board to establish, or gained access through an agreement with another county board to a
110 behavioral intervention program:

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

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

115 (3) The student may not ride the bus;

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

118 (5) The student shall be suspended for the next one to three school days while alternative

119 learning accommodations are made;

120 (6) The student shall be evaluated under Child Find and shall be referred for a Functional
121 Behavior Analysis pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. §1400, et
122 seq.;

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

125 (8) After the risk assessment, the student's return to school shall be on a provisional basis
126 for a period of five to 10 days. If another incident as described in this subsection occurs within that
127 time frame, the student shall be placed in an alternative learning environment for the remainder of
128 the semester or school year;

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

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

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

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

142 (2) If the student is excluded pursuant to subdivision (1) of this subsection:

143 (A) The principal shall communicate with the teacher within 24 hours of the student being
144 excluded from the teacher's classroom about the exclusion;

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

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

NOTE: The purpose of this bill is to address elementary behavior intervention and safety; to clarify that nothing in the bill be construed to conflict with certain federal laws; and to 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.

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