

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

Committee Substitute

for

House Bill 4995

By Delegates Martin, Kump, Willis, Ferrell, Phillips,

Shamblin, Hornby, Mallow, Brooks, Toney, and

Mazzocchi

[Reported February 27, 2026, from the Committee on

the Judiciary]

1 A BILL to amend and reenact §18-20-11 and §18A-2-8 of the Code of West Virginia, 1931, as
2 amended, relating to video cameras and audio recordings in self-contained classrooms;
3 requiring notice to certain parents or guardians of interruption in video camera or audio
4 recording; providing that a parent or guardian shall receive a copy of the applicable code
5 section upon the initial placement of a video camera or audio recording device; providing
6 that a judge may order that custody of a recording be transferred to a parent or guardian
7 until the statute of limitations expires; changing the time period required for review of the
8 recordings; clarifying that audio or video recordings may be used for purposes of
9 suspension and dismissal of school personnel; and clarifying the duty to investigate
10 allegations of abuse in certain circumstances.

*PREAMBLE: THE AMENDMENTS TO §18-20-11 ENACTED IN THE 2026 REGULAR SESSION
OF THE WEST VIRGINIA LEGISLATURE SHALL BE DESIGNATED AND MAY BE REFERRED
TO AS OSCAR'S LAW.*

Be it enacted by the Legislature of West Virginia:

CHAPTER 18. EDUCATION.

ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.

§18-20-11. Video cameras required in certain special education classrooms; audio recording devices required in restroom of a self-contained classroom.

1 (a) A local educational agency (LEA) shall ensure placement of video cameras in self-
2 contained classrooms and audio recording devices in the restrooms of self-contained classrooms
3 as defined in state board policy.

4 (b) As used in this section:

5 (1) "Incident" means a raised suspicion by a teacher, aide, parent, or guardian of a student,
6 of bullying, abuse, or neglect of a student or of harm to an employee of a public school by:

7 (A) An employee of a public school or local educational agency (LEA); or

8 (B) Another student;

9 (2) "Self-contained classroom" means a classroom at a public school in which a majority of
10 the students in regular attendance are provided special education instruction and as further
11 defined in state board policy; and

12 (3) "Special education" means the same as defined in §18-20-1 *et seq.* of this code.

13 (c) (1) A local educational agency (LEA) shall provide a video camera to a public school for
14 each self-contained classroom that is a part of that school which shall be used in every self-
15 contained classroom.

16 (2) Prior to August 1, 2023, a local educational agency (LEA) shall provide an audio
17 recording device to a public school to be used in the restroom of each self-contained classroom
18 that is a part of that school. If the public school is not able to receive the audio recording device by
19 August 1, 2023, the public school may apply to the state Department of Education for a waiver to
20 extend that date to August 1, 2024.

21 (3) The principal of the school or other school administrator whom the principal assigns as
22 a designee shall be the custodian of the video camera and audio recording device, all recordings
23 generated by the video camera and audio recording device, and access to those recordings
24 pursuant to this section.

25 (d)(1) Every public school that receives a video camera under this section shall operate
26 and maintain the video camera in every self-contained classroom that is part of that school.

27 (2) Every public school that receives an audio recording device under this section shall
28 operate and maintain the audio recording device in every restroom that is a part of a self-contained
29 classroom that is part of that school: *Provided*, That each restroom of a self-contained classroom
30 shall have posted on its door a notice that states: "Pursuant to state law, this restroom is equipped
31 with an audio recording device for the protection of the students."

32 (3) If there is an interruption in the operation of the video camera or audio recording device
33 for any reason, a written explanation should be submitted to the school principal and the local

34 educational agency (LEA) board explaining the reason and length for which there was no
35 recording. The explanation shall be maintained at the local educational agency (LEA) board office
36 for at least one year. Notice shall also be provided to any parent or guardian whose child was
37 present at the time of the interruption.

38 (e)(1) A video camera placed in a self-contained classroom shall be capable of:

39 (A) Monitoring all areas of the self-contained classroom, including, without limitation, a
40 room attached to the self-contained classroom and used for other purposes; and

41 (B) Recording audio from all areas of the self-contained classroom, including, without
42 limitation, a room attached to the self-contained classroom and used for other purposes.

43 (2) A video camera placed in a self-contained classroom shall not monitor a restroom or
44 any other area in the self-contained classroom where a student changes his or her clothes except,
45 for incidental monitoring of a minor portion of a restroom or other area where a student changes
46 his or her clothes because of the layout of the self-contained classroom.

47 (3) An audio recording device shall be placed in the restroom of the self-contained
48 classroom and notice provided pursuant to §18-20-11(d)(2) of this code.

49 (4) A video camera or audio recording device required by this section is not required to be
50 in operation during the time in which students are not present in the self-contained classroom.

51 (f) Before a public school initially places a video camera in a self-contained classroom or
52 an audio recording device in the restroom of a self-contained classroom pursuant to this section,
53 the local educational agency (LEA) shall provide written notice of the placement, including a
54 written copy of this section of code, to:

55 (1) The parent or legal guardian of a student who is assigned to the self-contained
56 classroom: *Provided*, That the parent or guardian be allowed the opportunity to opt out of the
57 bathroom audio monitoring for their student. An Individual Education Plan or 504 plan shall outline
58 the opt out and an alternative arrangement for the student or parent needs and requested
59 accommodation; and

60 (2) The school employee(s) who is assigned to work with one or more students in the self-
61 contained classroom.

62 (g)(1) Except as provided in subdivision (2) of this subsection, a public school shall retain
63 video and audio recorded pursuant to this section for at least three months after the date of the
64 recording, subject to the following:

65 (A) If the minimum three-month period overlaps the summer break occurring between the
66 last day of one instructional term and the first day of the next instructional term, the minimum
67 three-month period shall be extended by the number of days occurring between the two
68 instructional terms;

69 (B) For any school-based camera system or audio device recording device that is installed
70 or replaced after April 1, 2022, the public school shall retain video recorded from a camera or
71 audio device recording for at least 365 days after the date the video or audio was recorded and no
72 extension of this time period during the summer break is required.

73 (2) If a person requests to review a recording under subsection (k) or subsection (l) of this
74 section, the public school shall retain the recording from the date of the request until:

75 (A) The earlier of the person reviewing the recording or 60 days after the person who
76 requested the video or audio recording was notified by the public school that the video or audio
77 recording is available; and

78 (B) Any investigation and any administrative or legal proceedings that result from the
79 recording have been completed, including, without limitation, the exhaustion of all appeals.

80 (3) In no event may the recording be deleted or otherwise made unretrievable before the
81 time period set forth in subdivision (1) of this subsection elapses.

82 (h) This section does not:

83 (1) Waive any immunity from liability of a public local educational agency (LEA) or
84 employee of a public local educational agency (LEA);

85 (2) Create any liability for a cause of action against a public school or local educational

86 agency (LEA) or employee of a public school or local educational agency (LEA); or

87 (3) Require the principal or other designated school administrator to review the recording
88 absent an authorized request pursuant to this code section or suspicion of an incident except as
89 otherwise provided in subsection (j) of this section.

90 (i) A public school or local educational agency (LEA) shall not use video or audio recorded
91 under this section for:

92 (1) Teacher evaluations: Provided, That this subdivision does not prohibit the use of video
93 or audio recordings under this section for purposes of the suspension and dismissal of school
94 personnel pursuant to §18A-2-8 of this code; or

95 (2) Any purpose other than the promotion and protection of the health, wellbeing, and
96 safety of students receiving special education and related services in a self-contained classroom
97 or restroom of a self-contained classroom.

98 (j) Except as provided under subsections (k) and (l) of this section, a recording made under
99 this section is confidential and shall not be released or reviewed by anyone except the school
100 principal, other school administration designee, or local educational agency (LEA) designee if the
101 school principal or other school administration designee is unable to review the video or audio
102 recording pursuant to this subsection. The school principal, other school administration designee,
103 or local educational agency (LEA) designee shall review no less than 15 minutes of the video and
104 no less than 15 minutes of audio of each self-contained classroom and restroom at the school no
105 less than every ~~90~~ 30 calendar days. The state board shall include in its rule authorized by this
106 section requirements for documentation of compliance with the video and audio reviewing
107 requirements of this subsection.

108 (k) Within seven days of receiving a request, a public school or local educational agency
109 (LEA) shall allow review of a recording by:

110 (1) A public school or local educational agency (LEA) employee who is involved in an
111 alleged incident that is documented by the recording and has been reported to the public school or

112 local educational agency (LEA);

113 (2) A parent or legal guardian of a student who is involved in an alleged incident that is
114 documented by the recording and has been reported to the public school or local educational
115 agency (LEA); or

116 (3) An employee of a public school or local educational agency (LEA) as part of an
117 investigation into an alleged incident that is documented by the recording and has been reported
118 to the public school or local educational agency (LEA).

119 (l) Within seven days of receiving a request, a public school or local educational agency
120 (LEA) shall allow review of a recording by and comply with all subsequent requests for review or
121 release of the recording, by:

122 (1) A law-enforcement officer or employee of the Department of Human Services, as part
123 of an investigation into an alleged incident that is documented by the recording and has been
124 reported to the agency: *Provided*, That if a release of the recording is requested pursuant to this
125 subdivision, the agency receiving a copy of the recording shall maintain strict confidentiality of the
126 recording and not further release the recording without authorization from the public local
127 educational agency (LEA) through its superintendent; or

128 (2) A judge, counsel, or other legal entity that is charged with deciding or representing
129 either the school board, students, or employees in any matters related to legal issues arising from
130 an incident: *Provided*, That the recording may only be released pursuant to an appropriate
131 protective order or under seal.

132 (m) If an incident is discovered while initially reviewing a recording that requires a report to
133 be made under §49-2-803 of this code, that report shall be made by the reviewer pursuant to that
134 section within 24 hours of viewing the incident.

135 (n) When a recording is under review as part of the investigation of an alleged incident, and
136 the recording reveals a student violating a disciplinary code or rule of the school, which violation is
137 not related to the alleged incident for which the review is occurring, and which violation is not

138 already the subject of a disciplinary action against the student, the student is not subject to
139 disciplinary action by the school for such unrelated violation unless it reveals a separate incident
140 as described in §18-20-11(b)(1) of this code.

141 (o) It is not a violation of subsection (j) of this section if a contractor or other employee of a
142 public school or local educational agency (LEA) incidentally reviews a recording under this section
143 if the contractor or employee of a public school or local educational agency (LEA) is performing job
144 duties related to the:

145 (1) Installation, operation, or maintenance of video or audio equipment; or

146 (2) Retention of video or audio recordings.

147 (p) This section applies solely to cameras and audio recording devices installed pursuant
148 to this code section and does not limit the access of a student's parent or legal guardian to a
149 recording reviewable under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C.
150 §1232g, or any other law.

151 (q) A public school or local educational agency (LEA) shall:

152 (1) Take necessary precautions to conceal the identity of a student who appears in a video
153 recording but is not involved in the alleged incident documented by the video recording for which
154 the public school allows viewing under subsection (j) of this section, including, without limitation,
155 blurring the face of the uninvolved student; and

156 (2) Provide procedures to protect the confidentiality of student records contained in a
157 recording in accordance with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C.
158 §1232g, or any other law.

159 (r) (1) Any aggrieved person may appeal to the State Board of Education an action by a
160 public school or local educational agency (LEA) that the person believes to be in violation of this
161 section.

162 (2) The state board shall grant a hearing on an appeal under this subsection within 45 days
163 of receiving the appeal.

164 (s) (1) A public school or local educational agency (LEA) may use funds distributed from
165 the Safe Schools Fund created in §18-5-48 of this code or any other available funds to meet the
166 requirements of this section.

167 (2) A public school or local educational agency (LEA) may accept gifts, grants, or
168 donations to meet the requirements of this section.

169 (t) The state board may promulgate a rule in accordance with §29A-3B-1 *et seq.* of this
170 code to clarify the requirements of this section and address any unforeseen issues that might arise
171 relating to the implementation of the requirements of this section.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 2. SCHOOL PERSONNEL.

§18A-2-8. Suspension and dismissal of school personnel by board; appeal.

1 (a)(1) 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 (2) Nothing in this section shall be construed as relieving a board or a local educational
14 agency of its duty to conduct an independent investigation and review of an allegation of abuse of

15 a child in the absence of either a finding of abuse by the Department of Human Services in
16 accordance with §49-1-1 et seq. of this code or the initiation of proceedings for a felony or
17 misdemeanor charge against the person.

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

21 (c) The affected employee shall be given an opportunity, within five days of receiving the
22 written notice, to request, in writing, a level three hearing and appeals pursuant to the provisions of
23 §6C-2-1 et seq. of this code, except that dismissal for a finding of abuse or the conviction of a
24 felony or guilty plea or plea of nolo contendere to a felony charge is not by itself a grounds for a
25 grievance proceeding. An employee charged with the commission of a felony, a misdemeanor with
26 a rational nexus between the conduct and performance of the employee's job, or child abuse shall
27 be suspended, placed on administrative leave, or reassigned to duties which do not involve direct
28 interaction with pupils pending final disposition of the charges.

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

36 (e) It shall be the duty of any school principal to report any employee conduct alleged to
37 jeopardize the health, safety, or welfare of students or the learning environment of other students,
38 to the county superintendent within 24 hours of the allegation. Nothing in this subsection
39 supersedes §49-2-803 of this code or the provisions therein regarding mandated reporting of child
40 abuse and neglect.

41 (f) It shall be the duty of any county superintendent to report any employee suspended or
42 dismissed, or resigned during the course of an investigation of the employee's alleged
43 misconduct, in accordance with this section, including the rationale for the suspension or
44 dismissal, to the state superintendent within seven business days of the suspension, dismissal, or
45 resignation. The state superintendent shall maintain a database of all individuals suspended or
46 dismissed for jeopardizing the health, safety, or welfare of students, or for impacting the learning
47 environment of other students. The database shall also include the rationale for the suspension or
48 dismissal. The database shall be confidential and shall only be accessible to county human
49 resource directors, county superintendents, and the state superintendent of schools.

50 (g) Notwithstanding any other provisions of law, a suspended employee may not be barred
51 from attending public events on school property while serving the suspension, nor may a
52 suspended employee who has a dependent child, grandchild, foster child, or other family member
53 be barred from entering the school to exercise normal functions of a parent or guardian while
54 suspended: *Provided*, That the suspended employ's presence does not jeopardize the health,
55 safety, or welfare of students, employees, or visitors; impact the learning environment or the
56 school-sponsored activity; prejudice an investigation or disciplinary proceedings involving the
57 employee; violate an order of a court or any law; or threaten damage to property.