

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **Senate Bill 614**

By Senator Grady

[Introduced February 1, 2024; referred  
to 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; specifying requirements applicable to  
 3 when a grade kindergarten through six teacher in an elementary setting determines that  
 4 the behavior of a student is violent, threatening, or intimidating toward staff or peers, or  
 5 creates an unsafe learning environment, or impedes on other students' ability to learn in a  
 6 safe environment; and providing that nothing herein may be construed to be in conflict with  
 7 the Individuals with Disabilities Education Act.

*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, the teacher shall exclude from the  
 8 school any student known to have, or who is suspected of having, any infectious disease, or any  
 9 student who has been exposed to any infectious disease and shall immediately notify the proper  
 10 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  
 12 governing those cases or has presented a certificate of health signed by the medical inspector or  
 13 other proper health officer.

14 (c) The teacher, may exclude from his or her classroom or school bus any student who is

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

38 (d) When a grade kindergarten through six teacher in an elementary setting determines  
39 that the behavior of the student is violent, threatening, or intimidating toward staff or peers or  
40 creates an unsafe learning environment or impedes on other students' ability to learn in a safe

41 environment, the student shall be placed in any behavioral intervention program the county has  
42 established or has partnered with another county board to establish for the purpose of addressing  
43 such behaviors: *Provided*, That if the county board has not established or partnered with another  
44 county board to establish a behavioral intervention program:

45 (1) The student shall be removed from the classroom immediately after the incident and  
46 removed from peers for the remainder of the school day;

47 (2) The parents shall be notified and shall pick the student up from school preferably  
48 immediately, but by the end of the day at the latest. The student may not ride the bus;

49 (3) If the student is not picked up by the end of the day, the principal or other district  
50 employee shall notify law enforcement;

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

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

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

59 (7) Whether a student's behavior comes under the requirements of this subsection and  
60 whether the student is to be placed in an alternative learning environment for the remainder of the  
61 semester or school year pursuant to subdivision (6) of this subsection shall be at the discretion of  
62 the student's classroom teacher and principal or vice principal. If the principal or vice principal  
63 disagree with the teacher, the teacher may provide documentation and appeal to the county  
64 superintendent.

65 ~~(d)~~ (e) When a grade six through 12 teacher, excluding an elementary school teacher,  
66 determines that the behavior of the student is disorderly conduct, is interfering with an orderly

67 educational process, or obstructs the teaching or learning process of others in the classroom:

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

70 (2) If the student is excluded pursuant to subdivision (1) of this subsection;

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

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

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

80 (f) For purposes of this section, nothing herein may be construed to be in conflict with the  
81 provisions of the Individuals with Disabilities Education Act, 20 U.S.C. §1400, et seq.

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

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

87 ~~(g)~~ (i) Each county board is solely responsible for the administration of proper discipline in  
88 the public schools of the county and shall adopt policies consistent with the provisions of this  
89 section to govern disciplinary actions. These policies shall encourage the use of alternatives to  
90 discipline practices, provide for the training of school personnel in alternatives to discipline  
91 practices, and provide for encouraging the involvement of parent(s), guardian(s) or custodian(s) in  
92 the maintenance of school discipline. To promote a teaching and learning environment free from

93 substantial classroom disturbances, each county board shall ensure that each school implements  
94 a tier system policy, with teacher input, to provide a framework for student behaviors and  
95 punishments. The policy shall be clear and concise with specific guidelines and examples. The  
96 principal shall support the teacher in the discipline of the students if proper cause and  
97 documentation is provided following the schoolwide discipline policy. The teacher may not be  
98 reprimanded if their actions are legal and within the structure of the county board's policy for  
99 student behavior and punishment. The county board policies shall also include an appeal  
100 procedure whereby a teacher may appeal to the county superintendent if a school principal  
101 refuses to allow the exclusion of a student from the classroom or if a teacher believes the school  
102 principal has prematurely ended the exclusion of a student from the classroom. The county boards  
103 shall provide for the immediate incorporation and implementation in schools of a preventive  
104 discipline program which may include the responsible student program and a student involvement  
105 program, which may include the peer mediation program, devised by the West Virginia Board of  
106 Education. Each county board may modify those programs to meet the particular needs of the  
107 county. The county boards shall provide in-service training for teachers and principals relating to  
108 assertive discipline procedures and conflict resolution. The county boards also may establish  
109 cooperatives with private entities to provide middle educational programs, which may include  
110 programs focusing on developing individual coping skills, conflict resolution, anger control, self-  
111 esteem issues, stress management and decision making for students, and any other program  
112 related to preventive discipline.

113 ~~(h)~~ (j) For the purpose of this section:

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

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

121 (3) "Principal" means the principal, assistant principal, vice principal or the administrative  
122 head of the school, or a professional personnel designee of the principal or the administrative  
123 head of the school.

124 ~~(j)~~ (k) Teachers shall exercise other authority and perform other duties prescribed for them  
125 by law or by the rules of the state board not inconsistent with the provisions of this chapter and  
126 chapter 18 of this code.

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; and provide that nothing herein may be construed to be in conflict with the Individuals with Disabilities Education Act.

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