

Safe Schools = Successful Schools



Employee Rights Under the Safe Schools Act

Overview

Resource Guide

- *WV Safe Schools Act (WV Code 18-5-1a)*
- *WV State Board Policy 4373 - Expected Behavior in Safe And Supportive Schools*
- *WV State Board Policy 2419 - Regulations for the Education of Students with Exceptionalities*

Whether they occur in the classroom or on the school bus, disciplinary problems make it difficult for educators to deliver quality instruction to all children.

That's why AFT-West Virginia worked tirelessly to pass the Safe Schools Act during the 1990's and strengthen the law in subsequent legislative sessions.

There appears to be an alarming increase in the number of teachers and service personnel who are being physically assaulted by students.

It is unacceptable for ANY student to hit or kick a teacher. It's also detrimental to others in the class to have valuable instruction taken away by repeated disruptions by an unruly student. This issue seems to have significantly increased post-COVID.

The Safe Schools Act was designed to protect the rights of everyone in the classroom; educators and children do not forfeit their rights to a safe work environment when they enter a school.

"Our schools must be a safe haven for all who enter. Students deserve a safe learning environment free from constant disruptions, and we deserve a safe environment to do what we do best; teach."

-Fred Albert

President, AFT-WV

While students accused of misconduct have the right to due process, school employees have the right to enforce school discipline codes and ensure their own safety and that all other students.

What Should I Do if a Student Hits Me?

If you are kicked or hit by a student:

- Call for help
- Use appropriate methods to de-escalate the situation (using Crisis Prevention Intervention methods or personnel) to protect yourself and other students in the area. If you are not trained in CPI, find out which staff members are trained in your school. Consult WV Board Policy 4373 regarding use of restraint for more information.
- Immediately report the incident to your administrator. Let them know that you expect your rights under the Safe Schools Act to be protected.
- Seek medical attention if necessary. Ask the treating physician to document and photograph your injuries.
- Call your union representative for immediate guidance for the proper procedure according to the law.
- Document the incident while it's still fresh in your mind. Describe the scenario, listing the date, time and any witnesses. Keep your documentation private and secure until advised by your AFT-WV representative.
- Stay in close contact with your union representative. It is imperative to keep them apprised of developing events related to the incident (disciplinary action for the student, parental conference, etc.) to ensure your right to a safe work environment every step of the way.

Under no circumstances should any school employee be assaulted by a student, nor should school districts accept this violence.

Assaulting a school employee is a crime in West Virginia.

WV Code 18A-5-1A provides that a student must be expelled from school for 12 calendar months if he or she commits a battery against a school employee.

Battery is unlawful and intentional 1) physical contact of an insulting or provoking nature, or 2) physical harm.

Dealing with Disruptions

Can a student be excluded from a classroom or school bus for reasons other than fighting with or threatening a fellow student?

A: Yes. A student can be excluded from a classroom or bus for other reasons, including disobeying a school employee, using profane or abusive language toward a school employee, or interfering with an orderly educational process.

Q-2: Whose job is it to contact parents and tell them their children have been removed from a classroom or bus for disciplinary reasons?

A: According to the law, the principal is the one who informs parents or guardians that a student has been suspended or excluded from a classroom or school bus.

Q-3: It seems that some chronically disruptive students at our school get sent out of class or off the bus, but then are sent right back to class by administrators. Has the law changed to

curb this failed revolving-door practice?

A: Yes. The law has been strengthened considerably. According to the revised Safe Schools Act, a student who is excluded from a classroom or bus two times during the same semester can be readmitted to the classroom or bus only after a conference occurs to discuss the student's disruptive behavior. This conference must include the:

- ✦ Teacher or bus operator
- ✦ Principal; and, if possible,
- ✦ Parent/ guardian of the disruptive student.

Q-4: As long as the principal holds this conference, is he/she free to return the disruptive student to the classroom or bus?

A: No, just holding this conference with a parent isn't enough. There are two remaining steps. First, the teacher/bus operator and principal must agree on a course of discipline for the student and then inform the

parent of this disciplinary action. Second, the principal or the principal's designee must provide "written certification" to the teacher (or bus operator) that the student may be readmitted and [indicating] the specific type of disciplinary action, if any, that was taken. If you receive this written form, please make a photocopy of it. If you don't receive this form, be sure to ask for it. If your request for a copy of the form is ignored, please contact your AFT-WV staff representative immediately.

Q-5: What if the student's misbehavior continues, even after this conference and disciplinary action?

A: If the student's behavior persists and the teacher or bus operator has exhausted all reasonable in-class/bus disciplinary procedures, the teacher or operator may request that the student be transferred to an alternative learning setting.

What about students with IEPs?

Special education students are NOT exempt from the provisions of the Safe Schools Act. The Safe Schools Act is state law and supersedes WV State Board Policy 4373 regarding Student Behavior. Follow the steps outlined on page 2 of this document. Additionally, follow the provisions of WVDE policy 2419 relating to the education of students with exceptionalities.

- When a situation warrants removal of an IEP student for more than 10 consecutive school days per school year, the Manifestation Determination Team (LEA representative, parent, and appropriate members of the IEP team) must decide whether the student's behavior was a manifestation of the student's disability.
- Behavior is a manifestation of disability if it is caused by or had a direct and substantial relationship to the student's disability.
- If the Team determines that behavior is a manifestation, IEP Team conducts a Functional Behavior Assessment and designs or revises a Behavior Intervention Plan.
- If the Team determines the behavior was NOT a manifestation of disability, normal disciplinary procedures applicable to students without disabilities may be applied. Convene IEP Team to determine how the student's educational services will be continued during the period of exclusion.
- School officials/employees are free to report crimes committed by IEP students to the police.
- When a behavior violation involves weapons, illegal drugs or serious bodily injury regardless of whether the behavior is a manifestation of the student's disability, the student may be removed for up to forty-five school days. Refer to WVBOE Policy 2419 for definitions of the special circumstances for 45 day removals.
- Always contact your AFT-WV representative for guidance and assistance.



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