
1 ENGROSSED

2 **Senate Bill No. 467**

3 (By Senators Plymale, Kessler (Acting President), Stollings,
4 Miller, Beach, Chafin and Foster)

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6 [Introduced February 8, 2011; referred to the Committee on
7 Education.]

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12 A BILL to amend and reenact §18A-4-14 of the Code of West Virginia,
13 1931, as amended, relating to requiring reports on the number
14 of and reasons for incidences in which a teacher is unlawfully
15 assigned any responsibility during his or her planning period.

16 *Be it enacted by the Legislature of West Virginia:*

17 That §18A-4-14 of the Code of West Virginia, 1931, as amended,
18 be amended and reenacted to read as follows:

19 **ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.**

20 **§18A-4-14. Duty-free lunch and daily planning period for certain**
21 **employees.**

22 (1) Notwithstanding the provisions of section seven, article
23 two of this chapter, every teacher who is employed for a period of
24 time more than one-half the class periods of the regular school day

1 and every service ~~personnel~~ person whose employment is for a period
2 of more than three and one-half hours per day and whose pay is at
3 least the amount indicated in the "state minimum pay scale" as set
4 forth in section eight-a of this article shall be provided a daily
5 lunch recess of not less than thirty consecutive minutes, and ~~such~~
6 the employee shall not be assigned any responsibilities during this
7 recess. ~~Such~~ The recess shall be included in the number of hours
8 worked, and no county shall increase the number of hours to be
9 worked by an employee as a result of ~~such~~ the employee being
10 granted a recess under the provisions of this section.

11 (2) Every teacher who is regularly employed for a period of
12 time more than one-half the class periods of the regular school day
13 shall be provided at least one planning period within each school
14 instructional day to be used to complete necessary preparations for
15 the instruction of pupils. ~~Such~~ The planning period shall be the
16 length of the usual class period in the school to which ~~such~~ the
17 teacher is assigned, and shall be not less than thirty minutes. No
18 teacher shall be assigned any responsibilities during this period
19 and no county shall increase the number of hours to be worked by a
20 teacher as a result of ~~such~~ the teacher being granted a planning
21 period subsequent to the adoption of this section (March 13, 1982).

22 The principal of each school shall report to the county
23 superintendent the number of incidences in which a teacher is
24 assigned any responsibility during his or her planning period that

1 is not for the purpose of completing necessary preparations for the
2 instruction of pupils. For each incident, the report also shall
3 include the reason for the unlawful assignment of responsibility
4 during the planning period for the unauthorized purpose. Each
5 county superintendent shall compile the reports into one report and
6 submit the report to the state superintendent. The state
7 superintendent shall compile all of the reports from the county
8 superintendents into one report and submit the report to the
9 Legislative Oversight Commission on Education Accountability on or
10 before November 1 of each year.

11 Principals, and assistant principals, where applicable, shall
12 cooperate in carrying out the provisions of this subsection,
13 including, but not limited to, assuming control of the class period
14 or supervision of students during the time the teacher is engaged
15 in the planning period. Substitute teachers ~~may~~ also may be
16 ~~utilized~~ used to assist with classroom responsibilities under this
17 subsection: *Provided*, That any substitute teacher who is employed
18 to teach a minimum of two consecutive days in the same position
19 shall be granted a planning period pursuant to this section.

20 (3) Nothing in this section shall be construed to prevent any
21 teacher from exchanging his or her lunch recess or a planning
22 period or any service ~~personnel~~ person from exchanging his or her
23 lunch recess for any compensation or benefit mutually agreed upon
24 by the employee and the county superintendent ~~of schools~~ or his or

1 her agent: *Provided*, That a teacher and the superintendent or his
2 or her agent may not agree to terms which are different from those
3 available to any other teacher granted rights under this section
4 within the individual school or to terms which in any way
5 discriminate among ~~such~~ the teachers within the individual school,
6 and that service personnel granted rights under this section and
7 the superintendent or his or her agent may not agree to terms which
8 are different from those available to any other service personnel
9 within the same classification category granted rights under this
10 section within the individual school or to terms which in any way
11 discriminate among ~~such~~ the service personnel within the same
12 classification category within the individual school.