

1 ENGROSSED

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 477**

5 (By Senators Tucker, Beach, Cann, Edgell, Fitzsimmons, Green, D.
6 Hall, Miller, Palumbo, Plymale, Snyder, Williams, Kessler (Mr.
7 President), Yost, Wells, Nohe, Cookman and Stollings)

8 _____
9 [Originating in the Committee on Education;
10 reported February 18, 2014.]

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13 A BILL to amend and reenact §18A-4-14 of the Code of West Virginia,
14 1931, as amended, relating to daily planning periods for
15 certain school employees; providing that teachers determine
16 the use of time of a planning period; prohibiting
17 administrators from compelling a teacher to attend any work-
18 related event during a planning period except for occasional
19 specified instances; defining "meeting"; and setting forth
20 when a planning period begins.

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

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

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

25 **§18A-4-14. Duty-free lunch and daily planning period for certain**

1 **employees.**

2 (a) Notwithstanding the provisions of section seven, article
3 two of this chapter, every teacher who is employed for a period of
4 time more than one half the class periods of the regular school day
5 and every service person whose employment is for a period of more
6 than three and one-half hours per day and whose pay is at least the
7 amount indicated in the state minimum pay scale as set forth in
8 section eight-a of this article shall be provided a daily lunch
9 recess of not less than thirty consecutive minutes, and the
10 employee shall not be assigned any responsibilities during this
11 recess. The recess shall be included in the number of hours
12 worked, and no county shall increase the number of hours to be
13 worked by an employee as a result of the employee being granted a
14 recess under the provisions of this section.

15 (b) Every teacher who is regularly employed for a period of
16 time more than one half the class periods of the regular school day
17 shall be provided at least one planning period within each school
18 instructional day to be used to complete necessary preparations for
19 the instruction of pupils. No teacher may be assigned any
20 responsibilities during this period, and no county shall increase
21 the number of hours to be worked by a teacher as a result of such
22 teacher being granted a planning period subsequent to the adoption
23 of this section (March 13, 1982). The use of the entire period of
24 time allotted for a planning period is determined by the teacher.
25 Administrators may not compel a teacher to attend meetings,
26 training or any other work-related event during a planning period

1 except for occasional instances of conferences with teachers,
2 including team meetings and evaluation conferences. This does not
3 prohibit any teacher from conducting a meeting, as prescribed, at
4 his or her discretion. "Meeting" for the purpose of this section
5 includes, but is not limited to, IEP meetings, 504 Plan meetings
6 and parent-teacher conferences. A planning period begins once
7 students are physically delivered to another teacher or dismissed
8 from a class.

9 The duration of the planning period shall be in accordance
10 with the following:

11 (1) For grades where the majority of the student instruction
12 is delivered by only one teacher, the planning period shall be no
13 less than forty minutes; and

14 (2) For grades where students take separate courses during at
15 least four separate periods of instruction, most usually delivered
16 by different teachers for each subject, the planning period shall
17 be the length of the usual class period taught by the teacher, but
18 no less than forty minutes. Principals, and assistant principals,
19 where applicable, shall cooperate in carrying out the provisions of
20 this subsection, including, but not limited to, assuming control of
21 the class period or supervision of students during the time the
22 teacher is engaged in the planning period. Substitute teachers may
23 also be utilized to assist with classroom responsibilities under
24 this subsection: *Provided*, That any substitute teacher who is
25 employed to teach a minimum of two consecutive days in the same
26 position shall be granted a planning period pursuant to this

1 section.

2 (c) Nothing in this section prevents any teacher from
3 exchanging his or her lunch recess or a planning period or any
4 service person from exchanging his or her lunch recess for any
5 compensation or benefit mutually agreed upon by the employee and
6 the county superintendent or his or her agent: *Provided*, That a
7 teacher and the superintendent or his or her agent may not agree to
8 terms which are different from those available to any other teacher
9 granted rights under this section within the individual school or
10 to terms which in any way discriminate among those teachers within
11 the individual school, and a service person granted rights under
12 this section and the superintendent or his or her agent may not
13 agree to terms which are different from those available to any
14 other service personnel within the same classification category
15 granted rights under this section within the individual school or
16 to terms which in any way discriminate among those service
17 personnel within the same classification category within the
18 individual school.

19 ~~(d) The state board shall conduct a study on planning periods.~~
20 ~~The study shall include, but not be limited to, the appropriate~~
21 ~~length for planning periods at the various grade levels and for the~~
22 ~~different types of class schedules. The board shall report its~~
23 ~~findings and recommendations to the Legislative Oversight~~
24 ~~Commission on Education Accountability no later than December 31,~~
25 ~~2013.~~