

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 242**

BY SENATORS MULLINS, BOSO AND CLINE

[Originating in the Committee on Education; reported  
on February 17, 2017]

1 A BILL to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended; and to  
2 amend and reenact §18-5A-5 of said code, all relating to school calendars; removing the  
3 word “separate” throughout the section as it relates to the number of instructional days in  
4 the school calendar; designating one noninstructional day for teachers as a preparation  
5 day for opening school and another for teachers as a preparation day for closing school;  
6 allowing teacher preparation days to be used for certain other purposes at teacher’s  
7 discretion; increasing number of two-hour blocks for faculty senate meetings from four to  
8 six; removing requirement that faculty senate meetings be held once every forty-five days;  
9 permitting certain accrued minutes to be used for lost instructional days; requiring that any  
10 reimagining student instructional days be exhausted prior to using accrued minutes for  
11 lost instructional days; and encouraging the use of reimagining student instructional days  
12 to achieve the one hundred eighty instructional day requirement.

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

1 That §18-5-45 of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted; and that §18-5A-5 of said code be amended and reenacted, all to read as follows:

**ARTICLE 5. COUNTY BOARD OF EDUCATION.**

**§18-5-45. School calendar.**

1 (a) As used in this section:

2 (1) “Instructional day” means a day within the instructional term which meets the following  
3 criteria:

4 (A) Instruction is offered to students for at least the minimum amount of hours provided by  
5 a state board rule;

6 (B) Instructional time is used for instruction and cocurricular activities; and

7 (C) Other criteria as the state board determines appropriate.

8 (2) Cocurricular activities are activities that are closely related to identifiable academic  
9 programs or areas of study that serve to complement academic curricula as further defined by

10 the state board.

11 (b) *Findings.* —

12 (1) The primary purpose of the school system is to provide instruction for students.

13 (2) The school calendar, as defined in this section, is designed to define the school term  
14 both for employees and for instruction.

15 (3) The school calendar shall provide for one hundred eighty ~~separate~~ instructional days.

16 (c) The county board shall provide a school term for its schools that contains the following:

17 (1) An employment term that excludes Saturdays and Sundays and consists of at least  
18 two hundred days, which need not be successive. The beginning and closing dates of the  
19 employment term may not exceed forty-eight weeks;

20 (2) Within the employment term, an instructional term for students of no less than one  
21 hundred eighty ~~separate~~ instructional days, which includes an inclement weather and  
22 emergencies plan designed to guarantee an instructional term for students of no less than one  
23 hundred eighty ~~separate~~ instructional days;

24 (3) Within the employment term, noninstructional days shall total twenty and shall be  
25 comprised of the following:

26 (A) Seven paid holidays;

27 (B) Election day as specified in section two, article five, chapter eighteen-a of this code;

28 (C) Six days to be designated by the county board to be used by the employees outside  
29 the school environment, with at least four outside the school environment days scheduled to occur  
30 after the one hundred thirtieth instructional day of the school calendar; ~~and~~

31 (D) One day to be designated by the county board to be used by the employees for  
32 preparation for opening school and one day to be designated by the county board to be used by  
33 the employees for preparation for closing school: *Provided, That the school preparation days may*  
34 be used for the purposes set forth in paragraph (E) of this subdivision at the teacher's discretion;

35 and

36           ~~(D)~~ (E) The remaining days to be designated by the county board for purposes to include,  
37 but not be limited to:

38           (i) Curriculum development;

39           ~~(ii)~~ ~~Preparation for opening and closing school;~~

40           ~~(iii)~~ (ii) Professional development;

41           ~~(iv)~~ (iii) Teacher-pupil-parent conferences;

42           ~~(v)~~ (iv) Professional meetings;

43           ~~(vi)~~ (v) Making up days when instruction was scheduled but not conducted; and

44           ~~(vii)~~ (vi) At least ~~four~~ six two-hour blocks of time for faculty senate meetings with ~~each a~~ at  
45 least one two-hour block of time scheduled in the first month of the employment term, at least one  
46 two-hour block of time scheduled in the last month of the employment term and once at least  
47 every forty five instructional days at least one two-hour block of time scheduled in each of the  
48 months of October, December, February and April; and

49           (4) Scheduled out-of-calendar days that are to be used for instructional days in the event  
50 school is canceled for any reason.

51           (d) A county board of education shall develop a policy that requires additional minutes of  
52 instruction in the school day or additional days of instruction to recover time lost due to late arrivals  
53 and early dismissals first. Any remaining minutes accrued may be used for instructional minutes  
54 or days lost due to inclement weather or emergencies: *Provided*, That any reimagining student  
55 instructional days that are awarded to the county by the state board must be exhausted prior to  
56 using accrued minutes to cover lost instructional days.

57           (e) If it is not possible to complete one hundred eighty ~~separate~~ instructional days with the  
58 current school calendar, the county board shall schedule instruction on any available  
59 noninstructional day, regardless of the purpose for which the day originally was scheduled, or an  
60 out-of-calendar day and the day will be used for instruction of students: *Provided*, That the  
61 provisions of this subsection do not apply to:

62 (A) Holidays;

63 (B) Election day;

64 (C) Saturdays and Sundays.

65 (f) The instructional term shall commence and terminate on a date selected by the county  
66 board.

67 (g) The state board may not schedule the primary statewide assessment program more  
68 than thirty days prior to the end of the instructional year unless the state board determines that  
69 the nature of the test mandates an earlier testing date.

70 (h) The following applies to cocurricular activities:

71 (1) The state board shall determine what activities may be considered cocurricular;

72 (2) The state board shall determine the amount of instructional time that may be consumed  
73 by cocurricular activities; and

74 (3) Other requirements or restrictions the state board may provide in the rule required to  
75 be promulgated by this section.

76 (i) Extracurricular activities may not be used for instructional time.

77 (j) Noninstructional interruptions to the instructional day shall be minimized to allow the  
78 classroom teacher to teach.

79 (k) Prior to implementing the school calendar, the county board shall secure approval of  
80 its proposed calendar from the state board or, if so designated by the state board, from the state  
81 superintendent.

82 (l) In formulation of a school's calendar, a county school board shall hold at least two public  
83 meetings that allow parents, teachers, teacher organizations, businesses and other interested  
84 parties within the county to discuss the school calendar. The public notice of the date, time and  
85 place of the public hearing must be published in a local newspaper of general circulation in the  
86 area as a Class II legal advertisement, in accordance with the provisions of article three, chapter  
87 fifty-nine of this code.

88 (m) The county board may contract with all or part of the personnel for a longer term of  
89 employment.

90 (n) The minimum instructional term may be decreased by order of the state superintendent  
91 in any county declared a federal disaster area and where the event causing the declaration is  
92 substantially related to a reduction of instructional days.

93 (o) Notwithstanding any provision of this code to the contrary, the state board may grant  
94 a waiver to a county board for its noncompliance with provisions of chapter eighteen, eighteen-a,  
95 eighteen-b and eighteen-c of this code to maintain compliance in reaching the mandatory one  
96 hundred eighty ~~separate~~ instructional days established in this section.

97 (p) The use of reimagining student instructional days to achieve the one hundred eighty  
98 instructional day requirement is strongly encouraged in order to minimize scheduling instructional  
99 days too early or late in the school year.

100 ~~(q)~~ (q) The state board shall promulgate a rule in accordance with the provisions of article  
101 three-b, chapter twenty-nine-a of this code for the purpose of implementing the provisions of this  
102 section.

103 ~~(q) The amendments to this section during the 2013 regular session of the Legislature~~  
104 ~~shall be effective for school years beginning on or after July 1, 2014, and the provisions of this~~  
105 ~~section existing immediately prior to the 2013 regular session of the Legislature remain in effect~~  
106 ~~for school years beginning prior to July 1, 2014.~~

## **ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.**

### **§18-5A-5. Public school faculty senates established; election of officers; powers and duties.**

1 (a) There is established at every public school in this state a faculty senate which is  
2 comprised of all permanent, full-time professional educators employed at the school who shall all  
3 be voting members. "Professional educators", as used in this section, means "professional  
4 educators" as defined in chapter eighteen-a of this code. A quorum of more than one half of the

5 voting members of the faculty shall be present at any meeting of the faculty senate at which official  
6 business is conducted. Prior to the beginning of the instructional term each year, but within the  
7 employment term, the principal shall convene a meeting of the faculty senate to elect a chair, vice  
8 chair and secretary and discuss matters relevant to the beginning of the school year. The vice  
9 chair shall preside at meetings when the chair is absent. Meetings of the faculty senate shall be  
10 held during the times provided in accordance with subdivision (12), subsection (b) of this section  
11 as determined by the faculty senate. Emergency meetings may be held during noninstructional  
12 time at the call of the chair or a majority of the voting members by petition submitted to the chair  
13 and vice chair. An agenda of matters to be considered at a scheduled meeting of the faculty  
14 senate shall be available to the members at least two employment days prior to the meeting. For  
15 emergency meetings the agenda shall be available as soon as possible prior to the meeting. The  
16 chair of the faculty senate may appoint such committees as may be desirable to study and submit  
17 recommendations to the full faculty senate, but the acts of the faculty senate shall be voted upon  
18 by the full body.

19 (b) In addition to any other powers and duties conferred by law, or authorized by policies  
20 adopted by the state or county board or bylaws which may be adopted by the faculty senate not  
21 inconsistent with law, the powers and duties listed in this subsection are specifically reserved for  
22 the faculty senate. The intent of these provisions is neither to restrict nor to require the activities  
23 of every faculty senate to the enumerated items except as otherwise stated. Each faculty senate  
24 shall organize its activities as it considers most effective and efficient based on school size,  
25 departmental structure and other relevant factors.

26 (1) Each faculty senate shall control funds allocated to the school from legislative  
27 appropriations pursuant to section nine, article nine-a of this chapter. From those funds, each  
28 classroom teacher and librarian shall be allotted \$100 for expenditure during the instructional year  
29 for academic materials, supplies or equipment which, in the judgment of the teacher or librarian,  
30 will assist him or her in providing instruction in his or her assigned academic subjects or shall be

31 returned to the faculty senate: *Provided*, That nothing contained herein prohibits the funds from  
32 being used for programs and materials that, in the opinion of the teacher, enhance student  
33 behavior, increase academic achievement, improve self-esteem and address the problems of  
34 students at risk. The remainder of funds shall be expended for academic materials, supplies or  
35 equipment in accordance with a budget approved by the faculty senate. Notwithstanding any other  
36 provisions of the law to the contrary, funds not expended in one school year are available for  
37 expenditure in the next school year: *Provided, however*, That the amount of county funds  
38 budgeted in a fiscal year may not be reduced throughout the year as a result of the faculty  
39 appropriations in the same fiscal year for such materials, supplies and equipment. Accounts shall  
40 be maintained of the allocations and expenditures of such funds for the purpose of financial audit.  
41 Academic materials, supplies or equipment shall be interpreted broadly, but does not include  
42 materials, supplies or equipment which will be used in or connected with interscholastic athletic  
43 events.

44 (2) A faculty senate may establish a process for members to interview or otherwise obtain  
45 information regarding applicants for classroom teaching vacancies that will enable the faculty  
46 senate to submit recommendations regarding employment to the principal. To facilitate the  
47 establishment of a process that is timely, effective, consistent among schools and counties, and  
48 designed to avoid litigation or grievance, the state board shall promulgate a rule pursuant to article  
49 three-b, chapter twenty-nine-a of this code to implement the provisions of this subdivision. The  
50 rule may include the following:

51 (A) A process or alternative processes that a faculty senate may adopt;

52 (B) If determined necessary, a requirement and procedure for training for principals and  
53 faculty senate members or their designees who may participate in interviews and provisions that  
54 may provide for the compensation based on the appropriate daily rate of a classroom teacher  
55 who directly participates in the training for periods beyond his or her individual contract;

56 (C) Time lines that will assure the timely completion of the recommendation or the

57 forfeiture of the right to make a recommendation upon the failure to complete a recommendation  
58 within a reasonable time;

59 (D) The authorization of the faculty senate to delegate the process for making a  
60 recommendation to a committee of no less than three members of the faculty senate; and

61 (E) Such other provisions as the state board determines are necessary or beneficial for  
62 the process to be established by the faculty senate.

63 (3) A faculty senate may nominate teachers for recognition as outstanding teachers under  
64 state and local teacher recognition programs and other personnel at the school, including parents,  
65 for recognition under other appropriate recognition programs and may establish such programs  
66 for operation at the school.

67 (4) A faculty senate may submit recommendations to the principal regarding the  
68 assignment scheduling of secretaries, clerks, aides and paraprofessionals at the school.

69 (5) A faculty senate may submit recommendations to the principal regarding establishment  
70 of the master curriculum schedule for the next ensuing school year.

71 (6) A faculty senate may establish a process for the review and comment on sabbatical  
72 leave requests submitted by employees at the school pursuant to section eleven, article two of  
73 this chapter.

74 (7) Each faculty senate shall elect three faculty representatives to the local school  
75 improvement council established pursuant to section two of this article.

76 (8) Each faculty senate may nominate a member for election to the county staff  
77 development council pursuant to section eight, article three, chapter eighteen-a of this code.

78 (9) Each faculty senate shall have an opportunity to make recommendations on the  
79 selection of faculty to serve as mentors for beginning teachers under beginning teacher internship  
80 programs at the school.

81 (10) A faculty senate may solicit, accept and expend any grants, gifts, bequests, donations  
82 and any other funds made available to the faculty senate: *Provided*, That the faculty senate shall

83 select a member who has the duty of maintaining a record of all funds received and expended by  
84 the faculty senate, which record shall be kept in the school office and is subject to normal auditing  
85 procedures.

86 (11) Any faculty senate may review the evaluation procedure as conducted in their school  
87 to ascertain whether the evaluations were conducted in accordance with the written system  
88 required pursuant to section twelve, article two, chapter eighteen-a of this code or pursuant to  
89 section two, article three-c, chapter eighteen-a of this code, as applicable, and the general intent  
90 of this Legislature regarding meaningful performance evaluations of school personnel. If a  
91 majority of members of the faculty senate determine that such evaluations were not so conducted,  
92 they shall submit a report in writing to the State Board of Education: *Provided*, That nothing herein  
93 creates any new right of access to or review of any individual's evaluations.

94 (12) A local board shall provide to each faculty senate a at least six two-hour block blocks  
95 of time for a faculty senate ~~meeting~~ meetings on a day scheduled for the opening of school prior  
96 ~~to the beginning of the instructional term and at least four additional two-hour blocks of time during~~  
97 ~~noninstructional days, with each two-hour block of time scheduled once at least every forty-five~~  
98 ~~instructional days~~ with at least one two-hour block of time scheduled in the first month of the  
99 employment term, one two-hour block of time scheduled in the last month of the employment term  
100 and at least one two-hour block of time scheduled in each of the months of October, December,  
101 February and April. A faculty senate may meet for an unlimited block of time during  
102 noninstructional days to discuss and plan strategies to improve student instruction and to conduct  
103 other faculty senate business. A faculty senate meeting scheduled on a noninstructional day shall  
104 be considered as part of the purpose for which the noninstructional day is scheduled. This time  
105 may be used and determined at the local school level and includes, but is not limited to, faculty  
106 senate meetings.

107 (13) Each faculty senate shall develop a strategic plan to manage the integration of special  
108 needs students into the regular classroom at their respective schools and submit the strategic

109 plan to the superintendent of the county board periodically pursuant to guidelines developed by  
110 the State Department of Education. Each faculty senate shall encourage the participation of local  
111 school improvement councils, parents and the community at large in developing the strategic plan  
112 for each school.

113           Each strategic plan developed by the faculty senate shall include at least: (A) A mission  
114 statement; (B) goals; (C) needs; (D) objectives and activities to implement plans relating to each  
115 goal; (E) work in progress to implement the strategic plan; (F) guidelines for placing additional  
116 staff into integrated classrooms to meet the needs of exceptional needs students without  
117 diminishing the services rendered to the other students in integrated classrooms; (G) guidelines  
118 for implementation of collaborative planning and instruction; and (H) training for all regular  
119 classroom teachers who serve students with exceptional needs in integrated classrooms.