

THE WEST VIRGINIA PUBLIC EMPLOYEES GRIEVANCE BOARD

**JOEY CREMEANS, et al.,
Grievant,**

v.

Docket No. 2025-0676-CONS

**WAYNE COUNTY BOARD OF EDUCATION,
Respondent.**

DECISION

Grievant, Edmond Stephens, is employed by Respondent, Wayne County Board of Education. On April 28, 2025, Grievant, Edmond Stephens by representative, filed the unsigned grievance form. The grievance was dismissed due to a clerical error by Dismissal Order of May 5, 2025; then, Order Vacating Dismissal Order was entered May 29, 2025. The grievance of Edmond Stephens filed against Respondent states, “W. Va. Code § 18A-4-16. On April 9, 2024, Grievant signed an extracurricular contract with Respondent for [Wayne High School] “Grow Your Own” bus run. On April 7 and 8, 2025, “Grow Your Own” students were transported to Morgantown, WV, departing 4/7 and returned 4/8, 2025. Run was improperly awarded to another driver in violation of the contract W. Va. Code § 18A-2-5 and 18A-4-8b.” For relief, Grievant seeks payment for missed runs plus related benefits and interest.

Grievances of Joey Cremeans and Edmond Stephens were consolidated on or about May 27, 2025. Following the level one conference, a level one decision was rendered on June 5, 2025, denying the grievance. Grievants, Joey Cremeans and Edmond Stephens, appealed to level two on June 10, 2025. Following an Order of Unsuccessful Mediation entered September 30, 2025, Grievants appealed to level three of the grievance process on October 14, 2025. Thereafter, Grievant, Joey Cremeans, withdrew his grievance. Only Grievant, Edmond Stephens, proceeded to the level three

hearing held on May 28, 2026, before the undersigned at the Grievance Board's Charleston, West Virginia office. Grievant appeared in person and was represented by Lori D. Murray, Education West Virginia Representative. Respondent appeared by Jill Maynard, Transportation Department Coordinator, and was represented by counsel, Leslie K. Tyree. This matter became mature for decision on June 25, 2026, upon final receipt of the parties' written Proposed Findings of Fact and Conclusions of Law.

Synopsis

Grievant argues that he should have been awarded the "Grow Your Own" program overnight bus run to Morgantown pursuant to his extracurricular contract for the "Grow Your Own" bus run for Wayne High School. Respondent designated the trip as an extra duty night run and awarded the bus run according to the next senior driver on the roster established by the Memorandum of Agreement. Respondent correctly characterized and properly awarded the extra duty night run based on the duty roster. Grievant failed to prove by a preponderance of the evidence that he was entitled to the bus run. Therefore, the grievance is DENIED.

The following Findings of Fact are based upon a complete and thorough review of the record created in this grievance:

Findings of Fact

1. Grievant is employed as a bus operator for Respondent, Wayne County Board of Education.
2. In addition to his regular daily bid run to and from school, Grievant was awarded the extracurricular Wayne High School "Grow Your Own" ("GYO") bus run. G. Ex. 2.

3. The original GYO job description for 2022-2023 school year states, “One day per week (typically Thursdays) when students are present: days may differ depending on school calendar/inclement weather. Pick up students at WHS @ 12:00 p.m. Deliver students to Wayne Elementary (or other approved site). Depart Wayne Elem @ 12:00 pm and return to WHS at 1:00.” For this extracurricular run, the driver is compensated for a minimum of two hours pay at 1/7 of the driver’s daily rate. G. Ex. 2.

4. Grievant performs the GYO extracurricular bus run during the day, two days per week due to current enrollment. This is a daytime extracurricular assignment. Maynard and Grievant testimony.

5. Extracurricular runs do not interfere with the bus driver’s regular daily run to deliver students to and from their school. Maynard testimony.

6. There are two GYO programs in Wayne County, one at Wayne County High School and the other at Spring Valley High School.¹ Maynard and Grievant testimony.

7. The “Wayne County Bus Operator Contract of Employment for Extracurricular Assignment” signed by Grievant for “WHS Grow Your Own Bus Operator” was approved by Wayne County BOE at its meeting of February 23, 2023. This is an assignment of indefinite duration based solely upon the needs of Respondent. G. Ex. 1; Maynard and Grievant testimony.

8. Grievant’s GYO contract, page 1, states, “An extracurricular assignment is separate from regular employment and requires a separate written contract and both parties acknowledge that this extracurricular assignment is entered into pursuant to W.

¹ No evidence indicated that the Spring Valley High School GYO driver was the bus driver for the overnight trip.

Va. Code 18A-4-16. This assignment is a bus run which occurs on a regularly scheduled basis; however, the run occurs at a time different than the drivers regularly scheduled run(s)." G. Ex. 1.

9. Grievant's GYO contract, page 2, states, "This payment is discretionary extra compensation and is not intended to cause the employee to work more than 8 hours per day or to create an expectation of additional pay your work during the normal 8 hour work day. The scheduled assignment for this run is flexible and subject to change by the Director of Transportation. Any change or modification shall be written...." G. Ex. 1.

10. Grievant was required by his GYO contract to turn down any day or night run if he was needed for the "Grow Your Own" run. Maynard and Grievant testimony.

11. At Grievant's direction, the GYO teacher submitted a trip request to Respondent Transportation Department for the transport of GYO students of Wayne County High School and Spring Valley High School to Morgantown as part of the program curriculum. The field trip to Morgantown began about 1:00 p.m. on April 7, 2025, and returned from Morgantown about 12:00 p.m. on April 8, 2025. Maynard and Grievant testimony.

12. The Memorandum of Agreement between the Wayne County Board of Education, West Virginia School Service Personnel Association, and West Virginia Education Association, controls the operations of Respondent Transportation Department. Maynard testimony; R. Ex. 1.

13. The field trip to Morgantown met the criteria for an extra duty night run as the trip began on the afternoon on April 7, 2025, and scheduled to return until the following afternoon of April 8, 2025. Maynard testimony; R. Ex. 1.

14. Coordinator Maynard classified the Morgantown trip as a night run and followed the procedure in the Memorandum to assign the night run accordingly. Maynard testimony; R. Ex. 1.

15. The Transportation Department maintains a list of drivers that wish to be considered for all night runs that may come available. When a run is classified as a night run, Coordinator Maynard utilizes the night run list and calls the next driver in line. Maynard testimony; R. Ex. 1.

16. Grievant was not the next driver in line on the roster when the extra duty field trip to Morgantown was assigned. Maynard testimony.

17. The overnight bus run to Morgantown was assigned to a different bus operator based on the extra duty night run roster. Maynard testimony.

18. Grievant's status as the extracurricular "Grow Your Own" driver for Wayne High School has no bearing on the award of a "night run" under the 2018 Memorandum of Agreement. Maynard testimony; G. Ex. 1, R. Ex. 1.

19. Coordinator Maynard followed the appropriate and agreed upon process in assigning the extra duty night run.

20. Respondent used the same process which is always utilized in the awarding of a night run. Maynard testimony; R. Ex. 1.

21. On page 4 under paragraph 1 of "Extra Trips Extra Duty Night Runs," the Memorandum states, "Each year at the opening of school within the 1st 5 attendance days all drivers in all high school attendance areas desiring to make paid extra duty runs night runs shall sign a duty roster." R. Ex. 1.

22. On page 4 under paragraph 2 of “Extra Trips Extra Duty Night Runs,” the Memorandum states, “Signing the duty roster shall be the sole responsibility of the driver.” R. Ex. 1.

23. On page 4 under paragraph 3 of “Extra Trips Extra Duty Night Runs,” the Memorandum states, “The rotation of the duty roster shall be determined by seniority and runs will be awarded accordingly.” R. Ex. 1.

24. On page 4 under paragraph 12 of “Extra Trips Extra Duty Night Runs,” the Memorandum states, “Night runs are defined as those that begin during the day and are not scheduled to return until after a driver’s evening run and runs that begin after a driver’s evening run, or on weekends or holidays.” R. Ex. 1.

Discussion

As this grievance does not involve a disciplinary matter, Grievant has the burden of proving his grievance by a preponderance of the evidence. W. VA. CODE ST. R. § 156-1-3 (2018). “The preponderance standard generally requires proof that a reasonable person would accept as sufficient that a contested fact is more likely true than not.” *Leichliter v. Dep’t of Health & Human Res.*, Docket No. 92-HHR-486 (May 17, 1993), *aff’d*, Pleasants Cnty. Cir. Ct. Civil Action No. 93-APC-1 (Dec. 2, 1994). Where the evidence equally supports both sides, the burden has not been met. *Id.*

Grievant argues he was entitled to the overnight run to Morgantown for the “Grow Your Own” program pursuant to his contract for the Wayne High School GYO program. Grievant asserts the assignment of the Morgantown trip to another driver was arbitrary, inconsistent with the posting, and in violation of W. Va. Code §§ 18A-4-8b, 18A-4-16 and 18A-2-5. Respondent asserts that the overnight Morgantown trip constitutes an “extra duty night run” which falls outside Grievant’s GYO extracurricular contract and job

description. Respondent denies any impropriety and asserts that it followed the provisions of the law and the Memorandum of Agreement for extra duty night runs.

The only disputed fact is whether the field trip to Morgantown should have been included in Grievant's contractual extracurricular assignment or designated an extra duty assignment.² Regular bus operators' work hours vary depending on which bus routes they have, but all have a morning run taking students to school, and an afternoon run returning from school. In addition, Grievant has the GYO extracurricular bus run for Wayne High School. Grievant's extracurricular contract does not explicitly address overnight trips. The plain language of the contract and job description do not exclude or include overnight or extended trips for the GYO program.

The GYO contract is based upon West Virginia Code § 18A-4-16 (2021), which states:

(1) The assignment of teachers and service personnel to extracurricular assignments shall be made only by mutual agreement of the employee and the superintendent, or designated representative, subject to board approval. Extracurricular duties shall mean, but not be limited to, any activities that occur at times other than regularly scheduled working hours, which include the instructing, coaching, chaperoning, escorting, providing support services or caring for the needs of students, and which occur on a regularly scheduled basis: Provided, That all school service personnel assignments shall be considered extracurricular assignments, except such assignments as are considered either regular positions, as provided by section eight [§ 18A-4-8] of this article, or extra-duty assignments, as provided by section eight-b [§ 18A-4-8b] of this article.

(2) The employee and the superintendent, or a designated representative, subject to board approval, shall mutually agree upon the maximum number of hours of extracurricular assignment in each school year for each extracurricular assignment.

(3) The terms and conditions of the agreement between the employee and the board shall be in writing and signed by both parties.

² Spring Valley High School also has a "Grow Your Own" program with a contractual bus driver for their weekly sessions; however, no further specific evidence was presented.

Grievant's contract declares that the GYO extracurricular assignment "occurs on a regularly scheduled basis...different than the driver's regularly scheduled run(s)." Moreover, it "is not intended to cause the employee to work more than eight hours per day...." The GYO extracurricular assignment job posting is incorporated in the contract but was not provided. However, Grievant presented the job description, which clearly describes a regularly scheduled bus run to and from Wayne High School to occur one day per week with 12:00 p.m. pick up and 1:00 p.m. return time. His extracurricular contract has consistency and predictability.

On the other hand, West Virginia Code defines extra-duty assignments and outlines their distribution:

- (f)(1) For the purpose of this section, "extra-duty assignment" means an irregular job that occur periodically or occasionally such as, but not limited to, field trips, athletic events, proms, banquets and band festival trips.
- (2) Notwithstanding any other provisions of this chapter to the contrary, decisions affecting service personnel with respect to extra-duty assignments are made in the following manner:
 - (A) A service person with the greatest length of service time in a particular category of employment is given priority in accepting extra-duty assignments, followed by other fellow employees on a rotating basis according to the length of their service time until all employees have had an opportunity to perform similar assignments. The cycle then shall be repeated.
 - (B) An alternative procedure for making extra-duty assignments within a particular classification category of employment may be used if the alternative procedure is approved both by the county board and by an affirmative vote of two-thirds of the employees within that classification category of employment.

W. VA. CODE § 18A-4-8b (2016). The GYO students periodically attend the event in Morgantown. See *White v. Monongalia County Bd. of Educ.*, Docket No. 2008-0586-CONS (Dec. 16, 2008); *Sprouse v. Lewis County Bd. of Educ.*, Docket No. 2010-1638-LewED (May 27, 2011). Even if the "Grow Your Own" leaders and students attended the

event in 2023 and 2024, the GYO overnight field trip to Morgantown remains an irregular occurrence. The GYO Morgantown trip was an “extra-duty” assignment. Respondent correctly designated the trip as an extra-duty night run, pursuant to the provision of the Agreement.

For extra-duty assignments, the law requires that such assignments shall be made on the basis of seniority on a rotating basis, unless the employees within that particular job classification have voted upon an alternative procedure. W. VA. CODE § 18A-4-8b (f)(2) (2016). Wayne County bus operators have an alternative procedure delineated in the Memorandum of Agreement signed in June 2018. According to the Agreement, all drivers who have signed the duty roster are placed in a rotation according to seniority. Although Grievant is included on this extra duty night run roster, he was not the next driver of the rotation. Therefore, he was not awarded the overnight run to Morgantown. Grievant failed to prove that the GYO overnight field trip was arbitrarily assigned to another bus driver. Accordingly, Respondent also followed the provisions of law and the Agreement relating to extra duty night trips and correctly awarded the run based on the duty roster.

If Respondent had previously permitted Grievant to cover the run to Morgantown, purportedly as part of his extracurricular contract, Respondent will not be penalized for correction of the error with the designation of “extra-duty” for the overnight run on April 7 and 8, 2025.³ “The Grievance Board has long recognized that boards of education should be encouraged to correct their errors as early as possible. *Conners v. Hardy County Bd.*

³ Grievant inferred, but did not prove, that he was the bus driver for the 2023 overnight field trip to Morgantown. The field trip was not taken in 2024.

of Educ., Docket No. 99-16-459 (Jan. 14, 2000); *Barrett v. Hancock County Bd. of Educ.*, Docket No. 96-15-512 (Dec. 31, 1997).” *Toney v. Lincoln County Bd. of Educ.*, Docket No. 2008-0533-LinEd (Oct 31, 2008).

Lastly, Grievant alleges that Respondent did not manage and assign bus drivers in a manner consistent with law and policy pursuant to the provisions of W. VA. CODE § 18A-2-5 (2025). As described above, Respondent complied with all applicable statutes and the Agreement in the award of the bus run. Grievant failed to prove that Respondent violated West Virginia Code § 18A-2-5 (2025).

Respondent accurately deemed the overnight field trip as an extra-duty assignment and awarded it properly. Grievant failed to prove that the Morgantown overnight field trip should have been awarded to him as part of his extracurricular assignment contract.

The following Conclusions of Law support the decision reached.

Conclusions of Law

1. As this grievance does not involve a disciplinary matter, Grievant has the burden of proving his grievance by a preponderance of the evidence. W. VA. CODE ST. R. § 156-1-3 (2018). “The preponderance standard generally requires proof that a reasonable person would accept as sufficient that a contested fact is more likely true than not.” *Leichliter v. Dep’t of Health & Human Res.*, Docket No. 92-HHR-486 (May 17, 1993), *aff’d*, Pleasants Cnty. Cir. Ct. Civil Action No. 93-APC-1 (Dec. 2, 1994). Where the evidence equally supports both sides, the burden has not been met. *Id.*

2. The GYO contract is based upon West Virginia Code § 18A-4-16 (2021), which states:

(1) The assignment of teachers and service personnel to extracurricular assignments shall be made only by mutual agreement of the employee and the superintendent, or designated representative, subject to board approval. Extracurricular duties shall mean, but not be limited to, any activities that occur at times other than regularly scheduled working hours, which include the instructing, coaching, chaperoning, escorting, providing support services or caring for the needs of students, and which occur on a regularly scheduled basis: Provided, That all school service personnel assignments shall be considered extracurricular assignments, except such assignments as are considered either regular positions, as provided by section eight [§ 18A-4-8] of this article, or extra-duty assignments, as provided by section eight-b [§ 18A-4-8b] of this article.

(2) The employee and the superintendent, or a designated representative, subject to board approval, shall mutually agree upon the maximum number of hours of extracurricular assignment in each school year for each extracurricular assignment.

(3) The terms and conditions of the agreement between the employee and the board shall be in writing and signed by both parties.

3. West Virginia Code defines extra-duty assignments and outlines their distribution:

(f)(1) For the purpose of this section, "extra-duty assignment" means an irregular job that occur periodically or occasionally such as, but not limited to, field trips, athletic events, proms, banquets and band festival trips.

(2) Notwithstanding any other provisions of this chapter to the contrary, decisions affecting service personnel with respect to extra-duty assignments are made in the following manner:

(A) A service person with the greatest length of service time in a particular category of employment is given priority in accepting extra-duty assignments, followed by other fellow employees on a rotating basis according to the length of their service time until all employees have had an opportunity to perform similar assignments. The cycle then shall be repeated.

(B) An alternative procedure for making extra-duty assignments within a particular classification category of employment may be used if the alternative procedure is approved both by the county board and by an affirmative vote of two-thirds of the employees within that classification category of employment.

W. VA. CODE § 18A-4-8b (2016).

4. For extra-duty assignments, the law requires that such assignments shall be made on the basis of seniority on a rotating basis, unless the employees within that

particular job classification have voted upon an alternative procedure. W. VA. CODE § 18A-4-8b (f)(2) (2016).

5. “The Grievance Board has long recognized that boards of education should be encouraged to correct their errors as early as possible. *Conners v. Hardy County Bd. of Educ.*, Docket No. 99-16-459 (Jan. 14, 2000); *Barrett v. Hancock County Bd. of Educ.*, Docket No. 96-15-512 (Dec. 31, 1997).” *Toney v. Lincoln County Bd. of Educ.*, Docket No. 2008-0533-LinEd (Oct 31, 2008).

6. Grievant failed to prove that Respondent violated West Virginia Code § 18A-2-5 (2025).

7. Respondent accurately deemed the overnight field trip as an extra-duty assignment and awarded it properly.

8. Grievant failed to prove that the Morgantown overnight field trip should have been awarded to him as part of his extracurricular assignment contract.

Accordingly, the grievance is **DENIED**.

“The decision of the administrative law judge is final upon the parties and is enforceable in the circuit court situated in the judicial district in which the grievant is employed.” W. VA. CODE § 6C-2-5(a) (2024). “An appeal of the decision of the administrative law judge shall be to the Intermediate Court of Appeals in accordance with §51-11-4(b)(4) of this code and the Rules of Appellate Procedure.” W. VA. CODE § 6C-2-5(b) (2024). Neither the West Virginia Public Employees Grievance Board nor any of its Administrative Law Judges is a party to such an appeal and should not be named as a

party to the appeal. However, the appealing party must serve a copy of the petition upon the Grievance Board by registered or certified mail. W. VA. CODE § 29A-5-4(b) (2024).

DATE: August 11, 2026

Kimberly D. Bentley
Administrative Law Judge