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**WEST VIRGINIA EDUCATION
EMPLOYEES GRIEVANCE BOARD**

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ROBERT FORD, et al.

vs.

DOCKET NO. 54-86-06-1

WOOD COUNTY BOARD OF EDUCATION

DECISION

Robert Ford, Robert Bennett, Robert Crawford, Herbert Dawson, Shirley Woody, Mary Bargeloh, Robert Beard, Arthur Fredrick, Jack Keeling, Catherine Miller, Ronald Pittman, James Ryan, Orman Whited, Jr. and Theodore Wigal, the grievants, are all employed by the Wood County Board of Education as vocational teachers. These individuals allege a violation of W. Va. Code, 18A-4-14 in that they were deprived of a planning period for the 1985-86 school year. The grievants ask that they be provided a planning period for the coming year and that they be compensated for teaching without a planning period during the 1985-86 school year at a rate of 16.6% of their daily salary per day. The grievants contend the board had made a similar arrangement with another teacher who was asked to teach without a planning period for the 1985-86 school

year.

The board of education concedes there may have been a technical violation of the statute but notes that Wood County Schools operate on a six period day and that state regulations suggest vocational education classes be taught in blocks of three consecutive periods, therefore any violation has been based on good faith and sound educational practices. The board further asserts the grievants have suffered no financial harm as they would have earned the same salary with a planning period and that arrangements with a teacher at another school are not relevant to this situation. The board assures the grievants the school system will function on a seven period day during the 1986-87 school year and they will receive a planning period.

W. Va. Code, 18A-4-14 requires that every teacher employed for more than one half of the class periods of the regular school day shall be provided at least one planning period during the school day. This period is to be the length of the usual class period in the school, but never less than thirty minutes.

Subsection three of this statute permits a teacher to exchange his lunch, recess or planning period for compensation or other benefits mutually agreed upon by

the employee and the county superintendent or his agent.

The board of education was aware of this provision as evidenced by their agreement with another teacher who exchanged her planning period for additional compensation. In this instance there was no exchange as the grievants received neither additional compensation nor benefits.

The board's argument that the grievants were not financially harmed is incorrect. As the grievants were required to teach throughout the day, planning would have to be entirely conducted on their own time. These individuals were required to work longer hours than teachers who had a planning period, yet they received the same salary.

In addition to violating W. Va. Code, 18A-4-14, this action has clearly violated the board's duty to treat all employees in a fair and uniform manner. Accordingly, these grievants are entitled to a planning period for the coming year and compensation for the planning time of which they were improperly deprived during the 1985-86 school year. The rate of compensation is to be calculated at a rate of 16.6% of their daily salary per day.

FINDINGS OF FACT

1. The grievants are employed by the Wood County Board of Education as vocational teachers.
2. These teachers were not scheduled a planning period during the 1985-86 school year.
3. Another teacher was compensated for teaching during her planning period.
4. The grievants received no additional salary or other benefits as compensation for loss of their planning period.

CONCLUSIONS OF LAW

1. W. Va. Code, 18A-4-14 requires that every teacher be scheduled at least one planning period of not less than thirty minutes during the school day.
2. An employee may exchange his planning period for additional compensation or other mutually agreed upon benefits. (W. Va. Code 18A-4-14).

Either party may appeal this decision to the Circuit Court of Kanawha County or to the Circuit Court of Wood County and such appeal must be filed within thirty (30) days of receipt of this decision. (Code 18-29-7) Please advise this office of your intent to do so in order that the record can be prepared and transmitted to the Court.

Sue Keller

SUE KELLER

Hearing Examiner

DATE

August 8, 1986