

FAQ

Q1: Is there a statutory right to planning periods?

A1: Yes. Each eligible teacher employed by the Board has a statutory right to at least two hundred minutes per week for planning periods for the purposes of designing work, evaluating student progress, conferencing, team planning, developing lesson plans, and participating in professional development and shared learning as mandated by R.C. 3301.07, Ohio Adm.Code 3301-35-05, and applicable laws.

Q2: Can a teacher waive the teacher's statutory right to planning periods?

A2: Yes. Pursuant to Section 21.4 of the applicable collective bargaining agreement with the Career and Technical Association ("CATA"), a teacher may waive the teacher's statutory right to receive planning periods.

Q3: Is a teacher paid a stipend for waiving the teacher's statutory right to planning periods?

A3: Yes. Pursuant to Section 21.4, each eligible teacher is paid a planning period stipend at "a rate of 10% of the teacher's annual salary" in exchange for the teacher waiving the teacher's statutory right to receive planning periods.

Q4: Does paying a teacher a stipend for waiving the teacher's statutory right to planning periods amount to a retroactive increase that is not paid in accordance with uniform criteria applicable to all employees of the Board?

A4: Yes. A stipend is only paid to an eligible teacher after such teacher is denied that teacher's statutory right to planning periods. These retroactive stipends are not paid to all employees of the Board. Nor is every employee of the Board eligible for such retroactive increases.

Q5: Was every eligible teacher provided with the statutory mandated planning period?

A5: Yes. Every eligible teacher was assigned a planning period outside the student portion of the teacher workday. As nothing in the plain and unambiguous language of Section 21.4 limits when the Administration may assign planning periods throughout the teacher workday, the Administration assigned planning periods to teachers outside the student portion of the teacher workday.

Q6: Did CATA initiate litigation against the Board?

A6: Yes. On December 13, 2011, CATA initiated litigation against the Board in the case of *Career & Technical Association v. Auburn Vocational School Dist. Bd. of Edn.*, Lake C.P. Case No. 11 CV 003318 (Judge Patrick J. Condon), asserting that the Section 21.4 planning period stipends must be paid to teachers if the planning periods were not assigned at the same time students were also attending classes and despite the fact that no teacher was denied any planning periods during the teacher workday.

Q7: Did the Trial Court agree, in part, with the Board?

A7: Yes. On October 14, 2021, the Trial Court dismissed the claims asserted by CATA with respect to the 2021-2022 and 2022-2023 school years.

Q8: Did the Trial Court agree, in part, with CATA?

A8: Yes. On October 14, 2021, Trial Court issued a final judgment against the Board in the total amount of \$1,486,045.78 to be distributed among eligible CATA members for the Section 21.4 planning period stipends during the 2011-2012 to 2020-2021 school years.

Q9: Does the Trial Court's award of the Section 21.4 planning period stipends amount to payment for services not rendered?

A9: Yes. At no point during the 2011-2012 to 2020-2021 school years, did any eligible teacher provide any services above and beyond the teacher workday. Nor did any such teacher provide any additional services in lieu of any planning periods because no teacher was, in fact, denied any planning period. As a result, the Trial Court's award of the Section 21.4 planning period stipends amounts to payment for services not rendered.

Q10: Did the Ohio Supreme Court refuse to hear the Board's appeal from the October 14, 2021 judgment entry?

A10: Yes. On March 28, 2023, the judicial process involving the Section 21.4 planning period stipends during the 2011-2012 to 2020-2021 school years finally came to an end when the Ohio Supreme Court, without opinion and with Chief Justice Kennedy and Justice DeWine dissenting, denied the Board's request to accept jurisdiction over Board's appeal from the October 14, 2021 judgment entry against the Board.

Q11: Is the Board bound by the October 14, 2021 judgment entry?

A11: Yes. While the Board continues to disagree with the October 14, 2021 judgment entry against the Board, the Board is now legally bound to follow this order to maintain the rule of law, which is a fundamental principle under which all persons, institutions, and entities – including the Board – are accountable to laws that are publicly promulgated, equally enforced, and independently adjudicated.

Q12: Did the Board attempt to satisfy, in full, the total judgment amount of \$1,486,045.78 upon conclusion of the appellate process?

A12: Yes. As soon as the appellate process, the Board attempted to satisfy the October 14, 2021 judgment award against the Board including, but not limited to, Board Resolution 74-23, which directed the Administration to immediately satisfy, in full, the total judgment amount of \$1,486,045.78.

Q13: Did CATA request to enter into settlement negotiations with the Board to reduce the financial impact of the October 14, 2021 judgment award?

A13: Yes. Given the dire financial impact caused by the \$1,486,045.78 final judgment award against the Board, CATA requested that the Board engage in confidential settlement discussions with CATA in an attempt to reduce this financial impact. Unfortunately, the Board and CATA were unable to reach an amicable settlement.

Q14: Was there a dispute between CATA members as to how the total \$1,486,045.78 judgment amount was to be distributed?

A14: Yes. Upon reaching a settlement impasse with CATA, a dispute arose between CATA members as to how the total \$1,486,045.78 judgment amount was to be distributed.

Q15: Did the Board seek assistance from the Trial Court to satisfy, in full, the total judgment amount of \$1,486,045.78 due to the dispute between CATA members as to how the total judgment amount was to be distributed?

A15: Yes. Upon receiving notice of the dispute between CATA members, the Board immediately requested that the Trial Court allow the Board to deposit the total \$1,486,045.78 judgment amount with the Trial Court for safekeeping, payment, and disposition to all eligible CATA members. On November 21, 2023, the Trial Court then denied this request as moot given the Trial Court's sua sponte nunc pro tunc order of November 20, 2023.

Q16: Did the November 20, 2023 sua sponte nunc pro tunc order substantially alter the original October 14, 2021 judgment entry?

A16: Yes. As a preliminary matter, the term “sua sponte” simply means that the Trial Court issued an order on its own accord and without a motion or filing from another party; and the term “nunc pro tunc” simply means “now for then.” On November 20, 2023, the Trial Court, sua sponte, issued a nunc pro tunc order purporting to correct the original October 14, 2021 final judgment. On the one hand, the original October 14, 2021 final judgment provides that “the court awards judgment to Career Tech against Auburn in the sum of \$1,486,045.78 (on behalf of and to be distributed to each member enumerated in Exhibit A).” On the other hand, the sua sponte November 20, 2023 nunc pro tunc order purports to correct the original October 14, 2021 final judgment and provides that “the court awards judgment to Career Tech against Auburn in the sum of \$1,486,045.78 (on behalf of and to be distributed by Auburn directly to each member enumerated in Exhibit A in the amounts stipulated, as set forth in Exhibit A, **less** governmental withholding and the stipulated amounts owed to STRS) (emphasis added).” Compare the dictionary definition of the term “less” as meaning either “minus” or “to a lesser extent or degree” with the dictionary definition of the term “plus” as meaning either “increased by” or “with the addition of.”

Q17: Is there a pending appeal before the Eleventh District?

A17: Yes. Despite the fact that the plain language of the November 20, 2023 journal entry actually orders the Board to pay a total judgment amount of \$1,089,891.65 versus the original October 14, 2021 total judgment amount of \$1,486,045.78, the Board timely appealed this order given the substantive changes made to the original October 14, 2021 journal entry. On February 5, 2024, the Board filed the initial merit brief and CATA’s answering brief is now due on or before February 26, 2024.