BARBARA J. ROBINSON

v. Docket No. 93-34-197

NICHOLAS COUNTY BOARD OF EDUCATION

DECISION

The grievant, Barbara Robinson, is employed by the Nicholas County Board of Education (Board) as an Inventory Supervisor assigned to the school system's Junior Reserve Officers' Training Corps (JROTC). She filed a grievance at Level I on or about April 9, 1993 alleging,

> Grievant is currently classified as an Inventory Supervisor and is assigned to work with the ROTC program of Nicholas County Schools. Grievant contends she is misclassified and seeks reclassification to Secretary II/Accountant II. Grievant alleges that Respondent has violated West Virginia Code §18A-2-5. She seeks back pay.

The grievant's supervisor was without authority to grant relief and the grievance was denied at Level II following a hearing held April 30, 1993. The Board, at Level III, declined to consider the matter and an appeal to Level IV was made June 3, 1993. (See footnote 1) A hearing washeld August 4, 1993 (See footnote 2) and the parties submitted proposed findings of fact and conclusions of law by September 7, 1993.

FACTS

The record developed at Levels II and IV support the following findings.

1) The grievant has been assigned to the JROTC program for approximately four years. Approximately 300 students are enrolled in the program which is based in a building situated near Richwood High School.

2) At the time of her appointment to the position the grievant was provided an extensive and detailed job description developed by the program's director, Colonel Mike Herold.

3) The staff for the JROTC program consists of Colonel Herold, three sergeants and the grievant. The volume of work associated with the operations of the program has increased substantially since the grievant's appointment due to significant increases in the number of students

enrolled since that time. The nature of the grievant's duties have not changed significantly.

4) The United States Department of Defense (Department) provides the majority of the funding for the JROTC program. The Board disburses those funds as fiscal agent for the Department.

5) The primary goal of the grievant's position is to see that supplies and equipment used in the JROTC program are ordered, received, stored, issued and, where appropriate, retrieved. To that end she performs the following tasks:

a) Ascertains, through communication with her superiors and students, the type and quantity of supplies needed for the program and completes purchase orders for those supplies.

b) Records either on paper or in a computer the names of students issued uniforms and other equipment.

c) Completes paperwork necessary for payments to vendors who clean and perform alterations on the students' uniforms.

d) Makes periodic inspections of inventory.

e) Retrieves uniforms and other equipment upon the graduation or resignation of a particular student and records the return of the property either in a ledger or computer.

f) Completes monthly and quarterly statistical reports regarding the status of the program's inventory.

6) The grievant, on an infrequent basis, also performs the following secretarial duties:

a) Answering the telephone at the JROTC office and referring calls to the military personnel assigned to the program.

b) Answering and fielding calls regarding general information about the JROTC program.

c) Typing routine correspondence generated by the military personnel.

7) The grievant completes purchase orders for various items not directly related to inventory such as salary for the JROTC staff. These orders are delivered to the Board's Central Office where they are processed for payment.

8) The grievant also makes entries in ledgers on approximately twenty-four line items in the program's budget reflecting the disbursement of funds by the Board. The program is not income-producing and neither the grievant nor the military personnel make disbursements, i.e., write checks, drawn on the program's funds.

9) The grievant also performs duties associated with at least three annual extracurricular activities provided for students enrolled in the program. These duties include securing space for the functions; contacting food and refreshment vendors; decorating; and ensuring that certificates and other awards to be presented at the functions are ordered.

10) The grievant attends the extracurricular functions. Apparently, she does so during her off-duty time on a voluntary basis.

11) In performing her duties the grievant transcribes from a dictating machine and operates a copier, microfiche machine and computer.

12) At the beginning of the 1992-93 school year, the grievant learned that several secretaries in the Board's central office had been reclassified to Secretary III/Accountant III and placed in paygrade E of the various paygrades contained in W.Va. Code §18A-4-8.

13) By letter dated September 18, 1992, the grievant asked that then-Superintendent of Schools Robert Bailey reclassify her position to Secretary II/Accountant II, a position, which by virtue of the provisions of Code §18A-4-8, would also be in paygrade E.
No immediate response to the request was forthcoming.

14) In January 1993 the grievant took and passed the Board's competency test for Accountant.

15) By letter dated February 5, 1993, Colonel Herold requested that the grievant's position be upgraded to Secretary II/Accountant II. Again, no response was forthcoming. The grievance was initiated on or about April 9, 1993.

ARGUMENT

The grievant's legal position is somewhat inconsistent. She asserts that she performs all the duties listed in Code §18A-4-8 for Inventory Supervisor, Secretary II and Accountant II but that she should be reclassified to Secretary II/Accountant II. The Board essentially maintains that Inventory Supervisor constitutes the "best fit" for the grievant's position. (See footnote 3)

CONCLUSIONS

After a thorough review of the parties' positions, the applicable statute and the foregoing findings of fact, the undersigned makes the following conclusions of law.

1) A county board of education has an obligation to ensure that its school service employees' duties coincide with their classification designations. W.Va. Code §18-4-8. An employee may contest his or her designation through the grievance procedure set forth in W.Va. Code §18-29-1 et seq.

2) "Inventory supervisor means personnel who are employed to supervise or maintain operations in the receipt, storage, inventory and issuance of materials and supplies." W.Va. Code §18A-4-8.

3) "Secretary II means personnel employed in any elementary, secondary, kindergarten, nursery, special education, vocational or any other school as a secretary. The duties may include performing general clerical tasks, transcribing from notes or stenotype or mechanical equipment or a sound-producing machine, preparing reports, receiving callers and referring them to proper persons, operating office machines, keeping records and handling routine correspondence. There is nothing implied herein that would prevent such employees from holding or being elevated to a higher classification." Id.

4) "Accountant II means personnel employed to maintain accounting records and to be responsible for the accounting process associated with billing, budgets, purchasing and related operations." Id.

5) Because of similarities in the nature of certain jobs listed in Code §18A-4-8, two or more job definitions may encompass the same duties. Proof that an employee performs such "crossover" duties does not necessarily mandate that his or her position be reclassified.

6) The JROTC program is not a "school" for the purposes of the Secretary II definition. Thus, the grievant is ineligible for that classification.

7) The grievant's finance-related duties are clerical in nature and do not rise to the level of an Accountant II as that position is defined in Code 18A-4-8. Personnel in the Board's central office are

responsible for the greater portion of "the accounting process associated with billing, budgets, and purchasing" of the JROTC program.

8) Notwithstanding the above conclusions regarding the grievant's secretarial and accounting duties, the record supports that those duties are incidental to the grievant's primary responsibilities as an Inventory Supervisor and consume a minimal amount of her time. Inventory Supervisor, as defined in Code §18A-4-8 and the Board's job description, which is wholly consistent with the statutory definition, constitutes the "best fit" for the grievant's position. (See footnote 4)

Accordingly, the grievance is **DENIED.**

Any party may appeal this decision to the Circuit Court of Kanawha County or the Circuit Court of Nicholas County and such appeal must be filed within thirty (30) days of receipt of this decision. W.Va. Code §18-29-7. Neither the West Virginia Education and State Employees Grievance Board nor any of its Administrative Law Judges is a party to such appeal and should not be so named. Any appealing party must advise this office of the intent to appeal and provide the civil action number so that the record can be prepared and transmitted to the appropriate court.

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JERRY A. WRIGHT

CHIEF ADMINISTRATIVE LAW JUDGE

Dated: March 25, 1994

Footnote: 1The grievant erroneously filed at Level IV on April 12, 1993, upon her receipt of the Level I decision. By order dated April 19,1993, the case was remanded to Level II.

Footnote: 2At this hearing the parties merely supplemented the record developed at Level II.

Footnote: 3The Board also asserts that the complaint was untimely. Because the grievant loses on the merits of the case it is not necessary to address this issue.

Footnote: 4It is noted that the grievant's secretarial duties appear to meet the Code §18A-4-8 definition of Secretary I and that she may thereby be entitled to the multiclassification of Inventory Supervisor/Secretary I. Since both classes are in paygrade D, the statute's mandate that "the minimum salary scale shall be the higher pay grade of the class titles involved," would not entitleher to an increase in salary. It is assumed that the grievant was aware of the Secretary I definition and chose not to seek that classification as an alternative form of relief. In any event, the undersigned declines

to award a classification which has not been specifically sought.