SARA L. DANIELS and

ZETHA K. KERNS,

Grievants,

v.

DOCKET NO. 98-42-170

RANDOLPH COUNTY BOARD

OF EDUCATION,

Respondent.

DECISION

Grievants, Sara L. Daniels and Zetha K. Kerns, allege they are currently misclassified as Accountant II/Secretary III's, working in the central office, and they seek to be reclassified as Accountant III/Executive Secretaries. In August of 1997, Grievants wrote Superintendent Glenn Karlen and requested reclassification. The matter was referred to the Reclassification of Service Personnel Committee which met on January 8, 1998, to consider the reclassification of both Grievants. On February 9, 1998, Superintendent Karlen responded in writing, and stated he was accepting the recommendations of the Reclassification Committee and denying Grievants' request for reclassification. The decision was subsequently appealed to Level II where a hearing was held on April 2, 1998, and the grievance denied. Grievants waived hearing at Level III. After several agreed to continuances, granted for good cause, a Level IV Hearing was held on August 6, 1998. Grievants were represented by their attorney, John Roush. Respondent was represented by its legal counsel, Basil Legg. The case became mature for decision on September 28, 1998, the deadline for the

submission of the parties' proposed findings of fact andconclusions of law.

FINDINGS OF FACT

1. Grievant, Sara L. Daniels is employed by the Respondent, Randolph County Board of Education as school service personnel. Ms. Daniels currently holds the classification title of Secretary III/Accountant II and works in the central office.

2. Grievant, Zetha K. Kerns is employed by the Respondent, Randolph County Board of Education as school service personnel. Ms. Kerns also currently holds the classification title of Secretary Ill/Accountant II and works in the central office.

3. Ms. Daniels was assigned at the time of the filing of this grievance as Secretary to Clifford Wilmoth, Administrative Assistant/Facilities, Transportation and Vocational Education.

4. Ms. Daniels is not assigned directly to the County Superintendent.

5. Ms. Daniels primarily does administrative work under the direction of Mr. Wilmoth and does not make significant administrative decisions in her position.

6. Ms. Kerns is employed in a position in Randolph County titled the Substitute Call-Out Secretary.

7. Ms. Kerns' duties primarily consist of being notified of a temporary vacancy and finding the appropriate substitute to fill that vacancy in order to assure that there is no gap in services to the students.

8. Ms. Kerns is also responsible for processing the paperwork verifying that all county school employees have the appropriate tuberculin skin test results on file with the Board of Education's central office.

9. Ms. Kerns did not have a direct supervisor at the time of the filing of thisgrievance other than the Superintendent of Schools. However, at the time of the original filing of this grievance, Ms. Kerns did not perform work at the direction of the Superintendent of Schools and was not employed as the County Superintendent of Schools' Secretary.

10. Following the filing of this grievance, Superintendent of Schools Glen Karlen assigned Cynthia Colsun, Administrative Assistant for Secondary Curriculum/Director of Administration, as Ms. Kerns' immediate supervisor.

Discussion

In order to prevail in a misclassification grievance, the employee must establish, by a preponderance of the evidence, that his duties more closely match those of another classification than that in which his position is categorized. Hamilton v. Jackson County Bd. of Educ., Docket No. 91-18-264 (Mar. 31, 1992), Porter, et al. v. Hancock County Bd. of Educ., Docket No. 93-15-493 (May 24, 1994). See also Hamilton v. Jackson County Bd. of Educ., Docket No. 91-18-264 (Mar. 31, 1992). In order to determine whether or not a school service personnel worker is entitled to a reclassification, a fact-specific, case by case, analysis must be done to establish that the employee is performing duties more closely associated with a different classification." Norman et. al. v. Greenbrier County Bd. of Educ., Docket No.96-33-263 (Apr. 15, 1997).

Both Grievants are currently multi-classified as Accountant II/Secretary III's. Therefore, it is necessary to examine each classification separately to determine if the Grievants are, indeed, misclassified.

A review of W. Va. Code § 18A-4-8 notes the classifications of secretariesemployed by a county board of education as follows:

A Secretary I is defined as “personnel employed to transcribe from notes or mechanical equipment, receive callers, perform clerical tasks, prepare reports and operate office machines.”

A Secretary II is defined as “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 steno- type 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.“

A Secretary III is defined as “personnel assigned to the county board of education office administrators in charge of various instructional, maintenance, transportation, food services, operations and health departments, federal programs or departments with particular responsibilities of purchasing and financial control or any personnel who have served in a position which meets the definition of Secretary II or Secretary III herein for eight years.”

Finally, an Executive Secretary is defined as “personnel employed as the county school superintendent's secretary or as a secretary who is assigned to a position characterized by significant

administrative duties."

The definition of an "Executive Secretary" is very specific and limited. One must either be: 1) the secretary for the County Superintendent of Schools; or 2) assigned to a position which has significant administrative duties. While both Grievants work in thecentral office and have some administrative duties, it is the opinion of the undersigned after reviewing the record, including Grievants' descriptions of their day-to-day duties, that neither Ms. Daniels, nor Ms. Kerns, are entitled under law to the classification of Executive Secretary, nor are they improperly classified as Secretary III's. The evidence clearly indicates that neither is the secretary employed to serve as secretary for the County Superintendent of Schools. (See footnote 1) Likewise, their positions are not characterized by **significant** administrative duties. While both Ms. Daniels and Ms. Kerns perform substantial, valuable duties for the Randolph County Board of Education, some even administrative, their duties are clearly more in accordance with their current classification of Secretary III and not an Executive Secretary.

As for the accounting portion of the Grievants' jobs, W. Va. Code § 18A-4-8 defines the various accountant school service personnel positions as follows:

An Accountant I is defined as "personnel employed to maintain payroll records and reports and perform one or more operations relating to a phase of the total payroll."

An Accountant II is defined as "personnel employed to maintain accounting recordsand to be responsible for the accounting process associated with billing, budgets, purchasing and related operations."

An Accountant III is defined as "personnel who are employed in the county board office to manage and supervise accounts payable and/or payroll procedures."

The duties performed by both Ms. Daniels and Ms. Kerns clearly fit within the current employment classification of Secretary III/Accountant II. The evidence established that neither Grievant performs the duties of the classification of Accountant III, i.e., personnel who are employed in the county board office to manage and supervise accounts payable and/or payroll procedures. While both Grievants have some "financial" duties, i.e., handling purchase orders, preparing time sheets and doing some financial reports, there is very little, if anything, they do that would not fall under their job description as Accountant II's. It should be noted that the evidence also establishes that all Accountant III's in the Randolph County School system are employed within the finance office and perform specialized

accounts payable and payroll procedures.

Randolph County Board of Education Treasurer and Head of the Finance Department, Ken Rhodeheaver, affirmed in his testimony that an Accountant III is responsible to manage and supervise accounting functions, primarily in the school system's Finance Office, including all the accounts payable and payroll procedures. Mr. Rhodeheaver also testified that, in his opinion, the duties described by the Grievants, while true, did not meet the statutory definition of Accountant III, nor were they comparable to the duties performed by the Accountant III employed under his direct supervision in the Finance Office.

Additionally, even if some of the duties performed by the Grievants were those thatwould fall under the job description of an Accountant III, "simply being required to undertake some responsibilities normally associated with a higher classification, even regularly, does not render a grievant misclassified, per se." Hatfield v. Mingo County Bd. of Educ., Docket No. 91-29-077 (Apr. 15, 1996).

"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 position be reclassified." Graham v. Nicholas County Bd. of Educ., Docket No. 93-34-224 (Jan. 6, 1994).

A board of education is statutorily required to review each service personnel's job classification annually and to reclassify employees as indicated by their current duties. W. Va. Code § 18A-4-8. The Board here did just that, and the committee assigned that task found the Grievants were properly classified. The undersigned finds no reason to disagree with that assessment, and Grievants have failed to meet their burden of proof in showing otherwise.

The above-discussion and Findings of Fact will be supplemented by the following Conclusions of Law.

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CONCLUSIONS OF LAW

1. “In order to prevail in a misclassification grievance, the employee must establish, by a preponderance of the evidence, that his duties more closely match those of another classification than that in which his position is categorized." Hamilton v. Jackson County Bd. of Educ., Docket No.91-18-264 (Mar. 31, 1992).

2. "In order to determine whether or not a school service personnel is entitled to areclassification, a fact specific, case by case analysis must be done to establish that the employee is performing duties more closely associated with a different classification." Norman et. al. v. Greenbrier County Bd. of Educ., Docket No.96-33-263 (Apr. 15, 1997).

3. An individual employed in one classification can perform all of the natural and incidental duties pertaining to that position without being subject to reclassification. This is true even though duties incidental to one classification may involve actions that are similar to the duties of another classification. Stewart v. Brooke County Bd. of Educ., Docket No.96-05-394 (Apr. 10, 1997).

4. "The county boards shall review each service personnel employee job classification annually and shall reclassify all service employees as required by such job classifications." W.Va. Code §18A-4-8.

5. "Secretary III means personnel assigned to the county board office administrators in charge of various instructional, maintenance, transportation, food services, operations and health departments, federal programs or departments with particular responsibilities of purchasing and financial control..." W. Va. Code § 18A-4-8.

6. An Executive Secretary is defined as “personnel employed as the county school superintendent's secretary or as a secretary who is assigned to a position characterized by significant administrative duties.”

7. "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.

8. "Accountant III means personnel who are employed in the county board office to manage and supervise accounts payable and/or payroll procedures." 9. "[S]imply being required to undertake some responsibilities normally associated with a higher classification, even regularly, does not render a grievant misclassified, per se." Hatfield v. Mingo County Bd. of Educ., Docket No. 91-29-077 (Apr. 15, 1996).

10. "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 position be reclassified." Graham v. Nicholas County Bd. of Educ., Docket No. 93-34-224 (Jan. 6, 1994).

11. The duties performed by the Grievants are not comparable to the duties performed by an Accountant III or Executive Secretary and Grievants' duties do not meet the statutory definition of an Accountant III or Executive Secretary.

12. Grievants have not met their burden of proof and have not established they are currently misclassified. Their duties and placement do not more closely match those of another classification than that in which their current positions are categorized.

Accordingly, this grievance is DENIED.

Any party may appeal this decision to the Circuit Court of Kanawha County or to the Circuit Court of Randolph 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.

Dated: February 24, 1999

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R. K. Miller

Administrative Law Judge

Footnote: 1 *There is an issue concerning Ms. Kerns' allegation that she served as the superintendent's secretary since he was the only person to which she reported. Apparently, because of various reorganizations within the Board of Education's central office over the last few years, including the elimination of an Assistant Superintendent and other positions, Ms. Kerns did not have an "official" direct supervisor other than the Superintendent of Schools for a period of time. However, Ms. Kerns still did not perform her daily work at the personal direction of the Superintendent of Schools and was not employed as his specific secretary.*

It appears the lack of a direct supervisor was an oversight on the part of the Board and has since been corrected. Following the filing of this grievance, Superintendent of Schools Glen Karlen assigned Cynthia Colsun, Administrative Assistant for Secondary Curriculum/Director of Administration, as Ms. Kerns' supervisor. This assignment was to make sure that there was no confusion with regard to the level of duties performed by Ms. Kerns.