JOETTA CLOVIS,

Grievant,

v. **Docket No. 01-17-242**

HARRISON COUNTY BOARD OF EDUCATION,

Respondent.

DECISION

Joetta Clovis ("Grievant") initiated this proceeding on March 12, 2001, challenging a $500 annual supplement granted to school secretaries by the Harrison County Board of Education ("HCBOE"). She seeks as relief to have a $500 supplement added to her own salary and to the salaries of all central office secretaries. Grievant's immediate supervisor lacked authority to grant the requested relief, and Grievant appealed to level two on March 15, 2001. A level two hearing was held on March 22, 2001, and the grievance was denied in a written decision dated April 27, 2001. Level three consideration was bypassed, and Grievant appealed to level four on May 3, 2001. A hearing was held in the Grievance Board's office in Westover, West Virginia, on June 29, 2001. Grievant was represented by counsel, John E. Roush, and Respondent was also represented by counsel, Basil R. Legg, Jr. This grievance became mature for consideration upon receipt of the parties' fact/law proposals on August 6, 2001.

The following findings of fact are made from a preponderance of the evidence of record.

Findings of Fact

1. Grievant is employed by Respondent as a Secretary IIIA, assigned to thecentral office.

2. Grievant and all other central office secretaries have received a $500 per year supplement for many years, which was not paid to school secretaries.

3. The central office secretaries work a 250-day employment term, which includes the summer and snow days, which school secretaries are not required to work.

4. On November 6, 2000, in settlement of a grievance filed by numerous school secretaries in Harrison County, Respondent implemented the same $500 annual salary supplement for school secretaries that had previously only been paid to central office secretaries.

Discussion

As this grievance does not involve a disciplinary matter, Grievants have the burden of proving their claims by a preponderance of the evidence. Procedural Rules of the W. Va. Educ. & State Employees Grievance Bd. 156 C.S.R. 1 § 4.21 (2000); Holly v. Logan County Bd. of Educ., Docket No. 96-23-174 (Apr. 30, 1997); Hanshaw v. McDowell County Bd. of Educ., Docket No. 33-88-130 (Aug. 19, 1988). See W. Va. Code § 18-29-6.

Grievant contends that, because she and the other central office secretaries work a longer employment term, are required to work on snow days, and have a higher level of responsibility, they are entitled to a higher supplement than the school secretaries. (See footnote 1) The only legal authority Grievant has cited for this proposition is W. Va. Code § 18A-4-5b,which provides that "uniformity shall apply to all salaries, rates of pay, benefits, increments or compensation for all persons regularly employed and performing like assignments and duties within the county[.]" This provision has been interpreted to mean that boards of education are required only to provide uniform benefits and compensation to similarly situated employees, meaning those who have "like classifications, ranks, assignments, duties and actual working days." Airhart v. Wood County Bd. of Educ., Docket No. 99-54-419 (May 19, 2000); Covert v. Putnam County Bd. of Educ., Docket No. 99-40-463 (Feb. 29, 2000); Stanley v. Hancock County Bd. of Educ., Docket No. 95-15-217 (Sept. 29, 1995); See Flint v. Board of Education, 207 W. Va. 251, 531 S.E.2d 76 (1999).

There can be no dispute that central office secretaries and school secretaries have different classifications, assignments, duties and employment terms. Accordingly, W. Va. Code § 18A-4-5b does not support the proposition that Grievant and her central office colleagues are entitled to similar supplements (which they now receive), much less that one group is entitled to a greater supplement than the other. This provision would only require Respondent to provide the same compensation and supplement to all central office secretaries who perform similar duties, which it has done. Moreover, Grievant's argument overlooks the fact that the central office secretaries are assigned to a higher pay grade than school secretaries, which is likely designed to compensate them for their greater

responsibilities and additional working days. Accordingly, Grievant has cited no legal basis which would require that central office secretaries receive a greater supplement, and this grievance must be denied.

The following conclusions of law support the decision reached.

Conclusions of Law

1. In a non-disciplinary matter, Grievants have the burden of proving their claims by a preponderance of the evidence. Procedural Rules of the W. Va. Educ. & State Employees Grievance Bd. 156 C.S.R. 1 § 4.21 (2000); Holly v. Logan County Bd. of Educ., Docket No. 96-23-174 (Apr. 30, 1997); Hanshaw v. McDowell County Bd. of Educ., Docket No. 33-88-130 (Aug. 19, 1988). See W. Va. Code § 18-29-6.

2. "Uniformity shall apply to all salaries, rates of pay, benefits, increments or compensation for all persons regularly employed and performing like assignments and duties within the county[.]" W. Va. Code § 18A-4-5b.

3. Grievant has failed to prove by a preponderance of the evidence that she is entitled to receive a greater annual salary supplement than employees who are classified as school secretaries.

Accordingly, this grievance is **DENIED**.

Any party may appeal this Decision to the Circuit Court of Kanawha County or the Circuit Court of Harrison 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. However, the appealing party is required by W. Va. Code § 29A-5-4(b) to serve a copy of the appeal petition upon the Grievance Board. The appealing party must also provide the Board with the civil action number so that the record can be prepared and properly transmitted to the appropriate circuit court.

Date: September 5, 2001 _____

DENISE M. SPATAFORE

Administrative Law Judge

Footnote: 1

Grievant originally alleged that she was receiving less of a supplement, per day, than the school secretaries, because

the school secretaries' supplements were being prorated, according to their respective employment terms. This practice was corrected in the spring of 2001, and school secretaries now receive a $500 annual supplement, regardless of contract term.