MARLENE A. WOOFTER,
Grievant,

v. **Docket No. 01-17-464**

HARRISON COUNTY BOARD OF EDUCATION,
Respondent.

D E C I S I O N

Grievant, Marlene A. Woofter, employed by the Harrison County Board of Education (HCBE) as a Secretary III/Auditor/Accountant III, filed a level one grievance on April 4, 2001, in which she alleged misclassification, a violation of W. Va. Code §18A-4-8. For relief, Grievant requests reclassification to Coordinator, with back pay and seniority effective the date of her original request. Grievant's immediate supervisor lacked authority to grant the requested relief at level one, and the grievance was denied at level two. Grievant elected to bypass consideration at level three, as is permitted by W.Va. Code §18-29-4(c), and filed a level four appeal on August 1, 2001. A level four hearing was conducted at the Grievance Board's Westover office on October 11, 2001, at which time Grievant was represented by William White of WVEA, and HCBE was represented by counsel, Basil R. Legg, Jr. The matter became mature for decision upon receipt of proposed findings of fact and conclusions of law filed by the parties on December 3, 2001.

The essential facts of this matter are undisputed and may be set forth as the following formal findings of fact.

Findings of Fact

1. Grievant has been employed by HCBE since 1981, and has held the multi-classification title of Accountant III/Auditor/Secretary III at all times pertinent to this grievance.

2. HCBE's job description for Accountant/Auditor/Secretary III lists the following functions and duties:

> - Maintains accounting records and is responsible for the computerized accounting process associated with payroll, insurance, accounts payable, accounts receivable, purchase orders, and related finance office operations.
>
> - Performs annual school audit and works with each school to ensure that all pertinent financial regulations and laws are adhered to.
>
> - Performs such other tasks and assumes such other responsibilities as the superintendent or immediate supervisor may from time to time assign.

3. Grievant's primary duty is to conduct school audits, including all the accounting and reporting required by various entities. Grievant also assists, trains, and advises other HCBE employees in matters associated with her audits. Additionally, Grievant performs other duties as assigned, including the processing of all Workers' Compensation forms, and coordinating school levy elections.

4. Until 1996, HCBE employed a Coordinator of School Finances who was responsible for certain duties now performed by Grievant. HCBE currently employs a Director/Coordinator of Finance who primarily processes payroll records, but is also responsible for accounts receivable, accounts payable, and other budget records.

Discussion

Because a misclassification grievance is non-disciplinary in nature, Grievant has the burden of proving her case by a preponderance of the evidence. Perdue v. Mercer County Bd. of Educ., Docket No. 92-27-280 (Mar. 29, 1993). "In order to prevail in a misclassification grievance an employee must establish, by a preponderance of the

evidence, that her duties more closely match that of another W. Va. Code §18A-4-8 classification than that under which [her] position is categorized." Porter v. Hancock County Bd. of Educ., Docket No. 93-15-493 (May 24, 1994). See Hamilton v. Jackson County Bd. of Educ., Docket No. 91-18-264 (Mar. 31, 1992). Conversely, simply being required to undertake some responsibilities normally associated with a higher classification, even regularly, does not render a grievant misclassified, per se. Hamilton v. Mingo County Bd. of Educ., Docket No. 91-29-077 (Apr. 15, 1991).

W. Va. Code § 18-4-8 defines “Accountant III” as “personnel who are employed in the county board office to manage and supervise accounts payable and/or payroll procedures.” "Auditor" is defined as “personnel employed to examine and verify accounts of individual schools and to assist schools and school personnel in maintaining complete and accurate records of their accounts.” “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 or any personnel who have served in a position which meets the definition of ‘Secretary II’ or ‘Secretary III’ in this section for eight years”. This same Code Section defines a "Coordinator" as "personnel who are assigned to direct a department or division."

A county board of education is required by W. Va. Code § 18A-4-8b to review each service personnel's job description annually and reclassify all service personnel as required by the job classifications. When statutory definitions are very generally worded, as here, they must be broadly applied. Sites and Murphy v. Pendleton County Bd. of Educ., Docket No. 94-36-1112 (May 31, 1995).

A careful review indicates Grievant performs some of the same type or similar duties as Coordinators, but is not responsible at the same level for a department or division. See Thacker v. Lincoln County Bd. of Educ., Docket No. 97-22-104 (Dec. 1, 1997); Wilkinson v. Lincoln County Bd. of Educ., Docket No. 95-22-248 (Sept. 7, 1995). As the most senior Accountant, Grievant provides advice and direction to her co-workers, but she is not responsible for their work product. Neither is Grievant solely responsible for a specific function. For example, the Director/Coordinator of Finance processes payroll records, the Coordinator of Personnel Computer Operations directs the operations of HCBE computers, and the Certification and Records Coordinator produces and maintains professional personnel files. Grievant performs a number of duties, but all of them fall within her multi-classification title, and none require the same degree of involvement and control over any specific area as do the administrators with whom she compares herself.

In addition to the foregoing findings of fact and discussion, it is appropriate to make the following formal conclusions of law.

Conclusions of Law

1. Boards of education are required to classify service personnel according to the duties they perform. W. Va. Code §§18A-2-5 and 18A-4-8.

2. "In order to prevail in a misclassification grievance an employee must establish, by a preponderance of the evidence, that her duties more closely match that of another W. Va. Code §18A-4-8 classification than that under which [her] position is categorized." Porter v. Hancock County Bd. of Educ., Docket No. 93-15-493 (May 24,

1994). See Gregory v. Mingo County Bd. of Educ., Docket No. 95-29-006 (June 19, 1995); Hamilton v. Jackson County Bd. of Educ., Docket No. 91-18-264 (Mar. 31, 1992); Hatfield v. Mingo County Bd. of Educ., Docket No. 91-29-077 (Apr. 15, 1991).

3. Grievant has failed to demonstrate she is misclassified and has not demonstrated the duties she performs more closely match those of a Coordinator as opposed to an Accountant III/Auditor/Secretary III.

Accordingly, the grievance is **DENIED**.

Any party may appeal this decision to the Circuit Court of Kanawha County or to 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: December 20, 2001

SUE KELLER
SENIOR ADMINISTRATIVE LAW JUDGE