THE WEST VIRGINIA PUBLIC EMPLOYEES

GRIEVANCE BOARD

BONITA REDD,

Grievant,

v.

Docket No. 2009-0451-McDED

MCDOWELL COUNTY BOARD OF EDUCATION

and DEPARTMENT OF EDUCATION,

Respondents.

ORDER RULING ON GRIEVANT'S REQUEST

FOR A HEARING ON DEFAULT CLAIM

The Grievance Board is in receipt of Grievant's memorandum of November 11, 2008, in which she alleges a violation of the grievance procedure. It appears from a review of the limited record of this matter Grievant is challenging her non-selection for the position of Associate Principal for Mount View High School. Grievant made a request to Superintendent Suzette Cook that the grievance proceed directly to level three pursuant to West Virginia Code § 6C-2-4(a)(4). Superintendent Cook did not agree with this request because, as she explained, Grievant was not discharged, suspended without pay or demoted or reclassified resulting in a loss of compensation or benefits. Thereafter, Superintendent Cook scheduled the grievance for a level one hearing as required by statute.

Pursuant to West Virginia Code § 6C-2-3(b)(1) “[t]he grievant prevails by default if a required response is not made by the employer within the limits established by this article. . .” In the instant matter, Grievant has failed to state any grounds that default has occurred. While the response from Superintendent Cook may not be a desired response to Grievant's request to proceed directly to level three, it is not a required response as encompassed by the default statute. Grievant's Statement of

Grievance provides nogrounds that this grievance is in a posture to proceed directly to level three. The only mechanism available to Grievant to proceed directly to level three was agreement of the parties. Superintendent Cook did not agree to waive level one and level two. Grievant has failed to state any claim for default under the provision of West Virginia Code § 6C-2-3.

Accordingly, Grievant's request for a hearing on the merit of default is **DENIED**.

Entered November 25, 2008

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Ronald L. Reece

Administrative Law Judge