

WEST VIRGINIA PUBLIC EMPLOYEES GRIEVANCE BOARD

SYNOPSIS REPORT

Decisions Issued in July, 2020

The Board's monthly reports are intended to assist public employers covered by a grievance procedure to monitor significant personnel-related matters which came before the Grievance Board, and to ascertain whether any personnel policies need to be reviewed, revised or enforced. W. Va. Code §18-29-11(1992). Each report contains summaries of all decisions issued during the immediately preceding month.

If you have any comments or suggestions about the monthly report, please send an e-mail to wvgb@wv.gov.

NOTICE: These synopses in no way constitute an official opinion or comment by the Grievance Board or its administrative law judges on the holdings in the cases. They are intended to serve as an information and research tool only.

TOPICAL INDEX
COUNTY BOARDS OF EDUCATION
PROFESSIONAL PERSONNEL

<u>KEYWORDS:</u>	Termination; Suspension; Willful Neglect of Duty; Failure to Report; Sexual Abuse; Sexual Contact; Sexual Misconduct; Mandatory Reporter; Duty; Visitor; Hearsay; Arbitrary and Capricious; Firefighting; Credibility; Investigation
<u>CASE STYLE:</u>	<u>Tucker v. Kanawha County Board of Education</u> DOCKET NO. 2020-0338-KanED (7/17/2020)
<u>PRIMARY ISSUES:</u>	Whether Respondent proved that Grievant violated Kanawha County Schools Policy J28A by failing to report an allegation of sexual abuse, and whether Respondent's actions in suspending and subsequently terminating Grievant's employment were justified.
<u>SUMMARY:</u>	Grievant was employed by Respondent as a teacher. Respondent suspended Grievant, then terminated his contract of employment for failure to report an allegation of sexual abuse in violation of policy and law as he was a mandatory reporter. Grievant denies all of Respondent's allegations asserting that nothing was reported to him; therefore, he had no duty to report anything. Grievant seeks reinstatement to his position. Respondent met its burden of proving that Grievant violated his duty to report and that such justifies its decision to suspend, then terminate Grievant's employment. Accordingly, the grievance is DENIED.

TOPICAL INDEX
STATE EMPLOYEES

<u>KEYWORDS:</u>	Motion to Dismiss; Timelines; Relief; Selection; Promotion Discrimination; Arbitrary and Capricious
<u>CASE STYLE:</u>	<u>Parsons v. Division of Highways</u> DOCKET NO. 2019-0815-DOT (7/2/2020)
<u>PRIMARY ISSUES:</u>	Whether Grievant established an actionable grievance by a preponderance of the evidence.
<u>SUMMARY:</u>	Grievant is employed by Respondent as a Transportation Worker and grieves his non promotion to crew chief. Grievant alleges a pattern of discrimination or favoritism as the reason for his non-selection to the position. Respondent requests the dismissal of this matter and disputes any malfeasance. Grievant did not appropriately establish an incident that timely constitutes a proper grievance. Further, Grievant failed to prove discrimination, favoritism, or that Respondent's actions were in violation of any applicable rule or regulation. It is established by a preponderance of the evidence that Respondent's motion to dismiss is meritorious. Accordingly, Respondent's "Motion to Dismiss" is Granted and this grievance is dismissed from the docket of the Grievance Board.