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**WEST VIRGINIA EDUCATION
EMPLOYEES GRIEVANCE BOARD**

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STEVE ADAMS

v.

DOCKET NO. 02-86-075

BERKELEY COUNTY BOARD OF EDUCATION

DECISION

The grievant, Steve Adams, has been employed by the Berkeley County Board of Education since 1980 and holds the position of attendance director/social worker. At the time of his employment Mr. Adams possessed a master's degree in social work, had earned one year of teaching experience and fifteen years professional experience with other government agencies. This information was listed on the grievant's resume and employment application. The grievant's salary was initially based on a master's degree and one year of experience.

During the 1984-85 school term the grievant became aware of an opinion of the State Superintendent of Schools which indicated that individuals could receive salary

and experience credit for prior experience earned in education related positions. The grievant then conferred with David McClung, Director of Personnel, as to whether he might receive credit for his prior experience. Upon providing Mr. McClung with copies of his resume and what appears to be a portion of his employment application, the grievant's salary was adjusted to reflect an additional fifteen years experience. This adjustment was made retroactive to August, 1984.

During the 1982-83 school year Mr. Adams became aware of another State Superintendent's opinion which indicated that having completed sixty hours towards a master's degree would entitle him to a salary classification of master's plus thirty. When this matter was brought to the respondent's attention his salary classification was appropriately revised retroactive to July 1, 1982.

Mr. Adams alleges a violation of W. Va. Code, 18A-4-1(1) and requests that he be granted both experience and education credit retroactive to the time of his employment.

In support of his position, Mr. Adams contends this to be an ongoing grievance and that both Superintendent Bowers and Dr. Christopher, his immediate supervisor, were aware of his employment history at the time he was

hired, yet the experience was not included in the computation of his salary.

The Berkeley County Board of Education has denied the grievance as the request regarding certification had been completed in 1982 and thus was not timely filed.

Prior experience credit to the date of employment was denied in reliance on two State Superintendent's opinions which state credit is to be given from the date of the employees application - not the date of qualification.¹

W. Va. Code, 18A-4-1(1) defines "years of experience" to include the number of years the teacher has been employed in the teaching profession, including work in educational positions other than the public schools. The board of education has given the grievant credit for his experience earned in other educational positions effective August, 1984, therefore the dispute is narrowed to whether the credit for both issues should be extended back to 1980.

The board of education relies on two opinions of the State Superintendent of Schools, dated February 4, 1985, and May 2, 1985, in denying the grievant's request for prior experience credit for the period of 1980-1984. These opinions state that entitlement to incremental

¹It is noted that none of the lower level decisions included findings of fact and conclusions of law as required by Code, 18-29-6. Grievance evaluators are urged to include these findings and conclusions in their decisions to avoid remand for compliance therewith. See, Burks v. McNeel, 264 S.E. 2d 651 (W. Va. 1980); Golden v. Harrison Co. Bd of Educ., 285 S.E. 2d 665 (W. Va. 1981).

experience pay begins at the time of application and is not retroactive beyond the years in which the claim is made.

The grievant argues the board was on notice that experience such as the grievant possessed was to be considered for salary computation as the State Superintendent had addressed the issue in 1962.²

The grievant's request that his prior experience credit be awarded retroactively to the time of his employment must be denied for two reasons. First, the two interpretations of the State Superintendent of Schools indicate that the employee must request credit for prior experience and, if granted, the credit is to be effective from the time of application, not from the date of employment.

Second, the granting of prior experience credit for social work is an exception to the general rule that years of experience means the number of years an individual has been employed in the teaching profession.³ Although the grievant included a brief description of his previous positions on his resume, it is his responsibility to notify his employer that the work should be considered educational in nature. It is an unrealistic expectation

²The State Superintendent determined that for the purpose of salary increment, experience earned as a public librarian may be included as years of teaching experience.

³See State Superintendent of Schools interpretation dated September 24, 1984, included within the record as grievant's exhibit two.

that school administrators should make that determination on such limited information.

In regard to Mr. Adams having been misclassified for the first two years of his employment, it is incumbent upon the employee to notify the board of any unusual circumstances which may effect his classification. The grievant's application for employment stated only that he held a master's degree. Without receiving further information from the grievant, it would be impossible to determine that he was entitled to a higher paygrade. This board has previously held that changes in classification are effective from the time of application.⁴

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

Findings of Fact

1. The grievant has been employed by the Berkeley County Board of Education since 1980 and holds the position of attendance/social worker.

2. At the time of his employment the grievant possessed a master's degree in social work from Indiana University. This program required the grievant complete sixty credit hours.

⁴See Carole Eversole v. Hampshire County Board of Education, Docket No. 14-86-006, decided August 29, 1986.

3. Prior to his employment by the board of education, the grievant had taught one year in Roane County Schools and had been employed in a professional capacity for fifteen years by other government agencies.

4. Sometime during the 1982-83 school term the grievant became aware that he was eligible for an upgrade of classification to the masters plus thirty level. Upon application the upgrade was granted, retroactive to July 1, 1982.

5. During the 1984-85 school term the grievant learned that he could receive credit, for salary purposes only, for his prior experience earned with government agencies. This credit was granted by the board of education effective August 1, 1984.

Conclusions of Law

1. Education employees shall be granted credit for years of experience gained in active work in educational positions other than public schools. W. Va. Code, 18A-4-1 (1).

2. It is the responsibility of the employee to provide the board of education with adequate information necessary to accurately determine salary classification.

Accordingly, for the foregoing reasons and the record in its entirety, this grievance is hereby DENIED.

Either party may appeal this decision to the Circuit Court of Kanawha County or to the Circuit Court of Berkeley County and such appeal must be filed within thirty (30) days of receipt of this decision. (Code, 18-29-7). Please advise this office of your intent to do so in order that the record can be prepared and transmitted to the Court.

DATED: November 5, 1986

Sue Keller

SUE KELLER
Hearing Examiner