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EMPLOYEES GRIEVANCE BOARD**

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TRUMAN SPIKER, et al.

vs.

DOCKET NO. 39-86-181-2

PRESTON COUNTY BOARD OF EDUCATION

DECISION

Due to severe flooding on November 3 and 4, 1985, the Rowlesburg area schools were so severely damaged that classes were held at various other locations throughout the county for the remainder of the school year. During this time the students were transported from their homes to a central area where they were regrouped by grade levels and delivered to the temporary classrooms.<sup>1</sup> As a result of this arrangement Truman Spiker, Donald L. Taylor, Ronald Sines, Bradley Keener and Delbert Waybright requested shuttle-run pay for the additional miles driven beyond their pre-flood schedule. This request was denied and a formal grievance was filed.

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<sup>1</sup>The students were located as follows: K-4 in a church basement and a bank in Rowlesburg; grades 5 and 6 in self contained classrooms in Fellowsville; grades 7 and 8 at Central Preston Junior High School and grades 9-12 in the Kingwood Community Building.

The grievants allege a violation of W. Va. Code, 18A-4-8a which states: "No service employee shall have his daily work schedule changed during the school year without his written consent, and his required daily work hours shall not be changed to prevent the payment of time and one-half wages or the employment of another employee."

The grievants further allege that other drivers are granted shuttle pay for the transportation of students from school to school and Code, 18A-4-5b requires uniformity of salaries, rates of pay, benefits, etc. for all persons performing like assignments and duties.

As a resolution of this matter the grievants ask for compensation from November, 1985, through the remainder of the school term at a rate of pay equal to that received by those drivers who receive shuttle pay.

The board of education contends these statutes to be inapplicable as the revised transportation schedule was implemented as a result of the flooding, which created an emergency situation. Further, the drivers work schedule increased only thirty minutes to an hour, well within the eight hours for which they are paid.

Bus operators are employed for the purpose of transporting students from their homes to their assigned schools. This duty is performed primarily in early morning and late afternoon, leaving the remainder of the day for cleaning and maintenance of the buses. Subsequent to the November flood it was necessary that the students be transported to various locations according to grade level. This required some extra effort to deliver the students and resulted in the grievants' run being somewhat extended. While this has changed the grievants' itineraries, it has not changed the daily work schedule of morning and afternoon runs. There is no indication that the administration has attempted to avoid paying these employees any additional compensation to which they were entitled or made any changes to avoid the hiring of an additional employee. On the contrary, another driver was assigned to this area resulting in all drivers being responsible for fewer students than before the flood.

The distinction between these grievants and the other drivers to which they compare themselves is obvious. The grievants were participating in an unusual two-step run required to transport the students from their homes to their temporary classrooms.

Other drivers who receive extracurricular or shuttle pay are involved in activities additional to their regular runs. For example, transporting students to a county vocational center, to athletic events, or on field trips.

Payment of drivers for an extracurricular or shuttle run is in no way violative of the statute requiring uniformity of salary for all employees performing like assignments and duties.

#### FINDINGS OF FACT

1. Schools in the Rowlesburg area were severely damaged during a major flood in November, 1985.
2. It was necessary to conduct classes at various locations throughout the county for the remainder of the school term.
3. During this time students in the Rowlesburg area were transported from their homes to a central location where they were grouped according to grade level and then delivered to their temporary classrooms.
4. This arrangement resulted in an extended run which increased the operator's driving time approximately thirty to sixty minutes per day.
5. The grievants request extracurricular or shuttle pay for the transportation of the students from the central meeting area to the temporary classrooms.

### CONCLUSIONS OF LAW

1. The temporary transportation arrangements, made by the board of education as a result of flood damage were not violative of Code, 18A-2-8a which states that a service employee's daily work schedule may not be changed during the school year without his consent.

2. The grievants are not entitled to extracurricular pay received by drivers who are responsible for runs additional to their regular assignments.

Accordingly, it is determined the grievants are not entitled to extracurricular or shuttle pay and the grievance is therefore denied.

Either party may appeal this decision to the Circuit Court of Kanawha County or to the Circuit Court of Preston 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: August 21, 1986

Sue Keller

SUE KELLER

Hearing Examiner