

Final



Members
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**WEST VIRGINIA EDUCATION
EMPLOYEES GRIEVANCE BOARD**

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HELEN CONLEY

V.

DOCKET NO: 23-86-102

LOGAN COUNTY BOARD OF EDUCATION

DECISION

This matter comes before the West Virginia Education Employees Grievance Board on appeal from a decision of the Logan County Board of Education. On October 31, 1986, the parties agreed, in writing, to submit the grievance for decision based upon the existing record and to waive an evidentiary hearing at level four.

The grievant, Helen Conley, complains that her transfer from the West Logan office would be detrimental to the school system, in violation of WV Code §18A-2-7.

The respondent, the Board of Education of the County of Logan, contends that the transfer was necessary to enable the Board to decrease the number of central office staff resulting from the decrease in revenue available.

The facts essential to the disposition of this matter were undisputed. The grievant has been employed as a Secretary for the Board of Education's transportation department for 18 years. At the present time of the grievance, she was the Secretary to the

Transportation Director, Otis Ferguson, whose job situation was in doubt. The respondent gave timely notice to the grievant in accordance with WV Code §18A-2-7.

WV Code §18A-2-7 in pertinent part provides:

The superintendent, subject only to approval of the board, shall have authority to assign, transfer, promote, demote or suspend school personnel and to recommend their dismissal pursuant to provisions of this chapter. However, and employee shall be notified in writing by the superintendent on or before the first Monday in April if he is being considered for transfer or to be transferred. Any teacher or employee who desires to protest such proposed transfer may request in writing a statement of the reasons for the proposed transfer. Such statement of reasons shall be delivered to the teacher or employee within ten days of the receipt of the request. Within ten days of the receipt of the statement of reasons, the teacher or employee may make written demand upon the superintendent for a hearing on the proposed transfer before the county board of education. The hearing on the proposed transfer shall be held on or before the first Monday in May. At the hearing, the reasons for the proposed transfer must be shown.

While the grievant admits that the respondent followed the procedural requirements of WV Code §18A-2-7, she contends that her transfer would be arbitrary, capricious and detrimental to the school system. The respondent, through its Superintendent, Dr. Samuel Sentelle, explained the Board's reason in that hearing and in a related hearing that the transfer was necessary in order to improve operation and efficiency.¹

¹The hearing before the Logan County Board of Education concerning this grievant's transfer and that of Isabelle Ellis were held on the same day. Helen Conley's testimony was followed by Ms. Ellis' testimony. Dr. Sentelle explained that he would address the reasons for both transfers after Ms. Ellis testified.

On appeal to the West Virginia Education Employees Grievance
(footnote cont.)

The grievant offered no evidence that supported her contention that the contemplated action to transfer her was arbitrary, capricious or would be detrimental to the school system.

In addition to the foregoing, the following findings of fact and conclusions of law are incorporated herein.

FINDINGS OF FACT

1. The grievant, Helen Conley, is employed by the Logan County Board of Education as a Secretary.
2. The grievant has been employed, at the time of this grievance, by the respondent board for 18 years.
3. The grievant received timely notice of the respondent's intention to place her on the transfer list.
4. The transfers of the grievant and Isabelle Ellis were related matters and were heard by the respondent board in such a manner as to overlap.
5. The facts as above recited were undisputed by the parties.
6. The grievant provided no evidence upon which a conclusion that the respondent board's action was arbitrary, capricious or detrimental to the school system could be based.

CONCLUSIONS OF LAW

1. Pursuant to WV Code §18A-2-7 and subject only to the approval of the board, the Superintendent has the authority to transfer school personnel.

(footnote cont.)

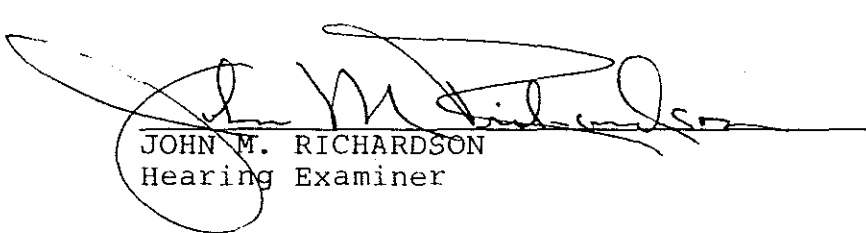
Board the testimony of Ms. Conely and Ms. Ellis was separated into two appeals. However, the records by necessity had to be considered together in order to properly understand the proceedings and arrive at this decision.

2. In accordance with previous decisions of this Board and fundamental principles of law, the grievant is required to prove the essential elements of the grievance by a preponderance of the evidence.

3. The grievant has failed to offer evidence upon which a conclusion preponderating in favor of the grievant could be based.

For all of the foregoing reasons, the grievance is denied.

Either party may appeal this decision to the Circuit Court of Logan County or Kanawha County and such appeal must be filed within thirty (30) days of receipt of this decision. (WV 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.



JOHN M. RICHARDSON
Hearing Examiner

DATED: Nov. 21, 1986