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**WEST VIRGINIA EDUCATION
EMPLOYEES GRIEVANCE BOARD**

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KAREN DAVIS

v.

DOCKET NO. 09-86-004-2

DODDRIDGE COUNTY BOARD OF EDUCATION

DECISION

The grievant, Karen Davis, was first employed by the Doddridge County Board of Education as a speech pathologist in 1980. At that time Ms. Davis held a Bachelor of Arts degree in speech pathology and had earned one year of experience in the Georgia school system.

Upon securing employment in West Virginia the grievant was issued a teaching permit by the West Virginia State Board of Education as regulations require that an individual possess a master's degree in speech pathology before a professional certificate will be issued.

Ms. Davis later enrolled in a master's level program and by December, 1981, had completed seventeen hours of graduate work. In January, 1982, Ms. Davis applied for the advanced salary classification of "AB+15". In March, 1982, the State Department of Education rejected the grievant's application

for the reason that "[t]o be eligible for an Advanced Salary Classification, the applicant must hold a valid Professional Certificate."

In response to an inquiry by the grievant, Roy Truby, State Superintendent of Schools, also explained that State Board policy did not permit the granting of advanced salary classifications to individuals who hold teaching permits. Mr. Truby states: "I trust this information is to the point of your inquiries even though the answers may not be satisfying. The office of Educational Personnel Development, which administers certification policies, is obligated to follow state code regulations and policies of the West Virginia Board of Education."

On November 7, 1985, Ms. Davis filed a grievance with the Doddridge County Board of Education based on a State Superintendent's interpretation dated September 26, 1985, which indicated that she would be eligible for the advanced classification.¹ Ms. Davis requests that she be reimbursed lost salary of approximately \$2,100 plus 10% interest.

Evidence indicates that Ms. Davis was issued a teaching permit in 1980 and was denied an upgrade of salary classification

¹Since that time a subsequent interpretation has been issued by the State Superintendent in which he reverses the decision of September 26, 1985.

in 1982 in accordance with the regulations of the State Department of Education. Correspondence indicates the grievant was displeased by the denial of her application but no grievance appears to have been filed at that time. Some three years later this grievance is filed based on a recent State Superintendent's interpretation which contradicted Department of Education policy and was reversed by a subsequent interpretation issued approximately one month later.

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

Findings of Fact

1. The grievant was employed by Doddridge County Schools as a speech pathologist in 1980.
2. At the time of her employment the grievant possessed a Bachelor of Arts degree and was issued a teaching permit.
3. An individual employed as a speech pathologist must possess a master's degree before a professional certificate will be issued.
4. The grievant applied for an advanced salary classification upon completion of seventeen hours of graduate work.
5. The grievant's application was denied by the State Board of Education based on its policy which requires that an individual must hold a valid Professional Certificate in order to be eligible for an advanced salary classification.

6. Three years later two contradictory interpretations were issued by the State Superintendent of Schools regarding the issue of whether speech pathologists working on permit were eligible for advanced salary classifications.

Conclusions of Law

1. There was no misapplication of State Board of Education policy in the denial of the grievant's application for advanced salary classification submitted in 1982.

2. A county board of education may not act in contradiction of State Board of Education policy.

3. Unless stated to the contrary, changes in administrative policy must be applied prospectively. Matters which were properly processed under prior policies do not constitute grievable issues upon a change of the policy.

As there has been no misapplication of policy by the State Board of Education and as the Doddridge County Board of Education has no authority to amend or reverse the regulations of the State Board of Education, this grievance is hereby denied.

Either party may appeal this decision to the Circuit Court of Kanawha County or to the Circuit Court of Doddridge 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