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**WEST VIRGINIA EDUCATION
EMPLOYEES GRIEVANCE BOARD**

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CAROLE EVERSOLE

v.

Docket No. 14-86-006

HAMPSHIRE COUNTY BOARD OF EDUCATION

DECISION

Testimony given at a level two hearing held in this matter revealed that the grievant, Carole Eversole, was first employed as a teacher's aide by the Hampshire County Board of Education in 1977. At the time of her application she discussed the possibility of receiving credit for prior work experience with Harold Carl, then Superintendent of Hampshire County Schools. It was the grievant's understanding, at that time, that she would receive credit for her prior experience as a nutrition aide with the West Virginia University Extension Service for salary, but not for seniority purposes. (T.pp. 14,25).

In December, 1984 the grievant discovered that her salary did not reflect the seven years prior experience credit. (T.p.16). At that time she began to make inquiries regarding her prior experience credit and was told that she needed to

secure a statement of verification from her supervisor at the Extension Service. Ms. Eversole promptly provided the verification in early January, 1985. (Eversole Exhibit #3). In March, 1985 Superintendent Grey Cassell, successor to Harold Carl, inquired of the State Superintendent of Schools whether the grievant's prior employment could be considered as years of experience as a board of education employee. (Eversole Exhibit #6). Superintendent Roy Truby responded affirmatively on March 29, 1985 (Eversole Exhibit #7) and then reversed this position on April 26, 1985. (Eversole Exhibit #8). Superintendent Truby based his responses on whether or not Ms. Eversole had been on the board of education payroll or if the board had contributed funding to the Extension Service during the time of her employment as a nutrition aide.

The grievant does not base her request for prior work credit on any affiliation between the board of education and the extension service but rather on a county practice which granted experience credit to individuals who had been previously employed in positions which required the performance of similar or identical tasks.

While the record does not indicate the existence of an official county policy governing this practice, Superintendent Cassell's testimony at the level two hearing was as follows:

A. Now, your question was, do we give prior service credit to other people who we employ, and I will say, yes, but those people who we have employed were doing a specific task that they were employed, after they were employed by the Board, they were doing a similar, or almost identical task. For instance, a teacher who works in another county is given prior service credit, because they have taught in another county, and the law says that you may give prior service credit to other individuals, but it doesn't say that the Board of Education shall, and under 18A, or 18-5-32, I believe.

Q. Okay, now do you, you also grant with regard to service personnel. For instance, I think the example of a secretary, who had worked in, you know, worked as a secretary prior to coming to work for the county Board of Education would be given credit for that time?

A. Yes, this is -

Q. Is that an administrative policy or Board policy?

A. This Board has, this Board has done that in prior years, yes. (T.pp. 42-43).

Salary augmentation by a board of education is permissible under W.Va. Code, 18A-4-5b so long as it is granted uniformly with regard to various criteria.

Based on Superintendent Truby's second decision and a finding that her prior position bears no similarity to her present assignment, the grievant's request to receive prior work experience credit was denied. Testimony and evidence offered at the level two hearing indicates that as a nutrition aide Ms. Eversole was involved in the instruction of nutritional planning. She worked under the supervision of the extension specialist, received orientation training and participated in continuing education training programs.

In her present position Ms. Eversole instructs individual or small groups of children under the supervision of a teacher. It appears that the duties performed by the grievant as a nutrition aide are fundamentally similar to those performed by her as a teacher's aide.

As Hampshire County has made a past practice of granting prior work experience credit for salary purposes to employees who have been engaged in similar or identical tasks, and as Ms. Eversole was previously employed in a position which involved similar skills and training and was instructional in nature, she is entitled to receive credit for this experience. Credit should be given beginning in January, 1985, when Ms. Eversole presented her verification to the board. Back pay prior to that date is disallowed as the employee must share the

responsibility of insuring she is properly classified for salary and tenure purposes.¹ It is apparent that Ms. Eversole understood this responsibility as she had questioned Ms. Arleen Saville, an employee at the central office, regarding the amount she was to receive as a result of subsequent pay raises and increment increases. (T.p. 16)²

FINDINGS OF FACT

1. Carole Eversole has been employed by the Hampshire County Board of Education as a teacher's aide since 1977.

2. Prior to 1977 Ms. Eversole was employed for seven years as a nutrition aide with the West Virginia University Extension Service.

¹ See Robert L. Turner v. McDowell County Board of Education, Docket No. 33-86-049.

² The board is responsible for the proper classification of individuals at the time employment begins; however, this must necessarily be based on information provided by the employee. While this grievant discussed the credit with the Superintendent she did not complete the necessary second step of confirming it with her paycheck.

3. The Hampshire County Board of Education allows service personnel who have engaged in similar or identical tasks prior experience credit for the purpose of salary computation.

4. Ms. Eversole included her prior experience on her job application and, having discussed it with the Superintendent, understood at the time she was hired that she would receive credit for her work experience.

5. In December, 1984 Ms. Eversole discovered she had not been paid a salary reflecting her prior work experience.

6. Ms. Eversole submitted verification of her prior experience in January, 1985.

7. The board of education has now determined that the grievant is not entitled to prior experience credit as the extension service received no funding from the board of education at the time of her employment and because her prior experience is totally unrelated to her present position.

CONCLUSIONS OF LAW

1. A county board of education may establish salary schedules in excess of the state minimum schedule, said salaries

shall be uniform throughout the county with regard to any training classification, experience, years of employment, etc.

2. Ms. Eversole now engages in duties fundamentally similar to those engaged in as a nutrition aide.

Accordingly, the facts indicate this grievant should be awarded experience credit earned as a nutrition aide with the West Virginia University Extension Service. The grievant shall be granted this credit retroactive to January, 1985, when she properly submitted verification of her prior experience.

Either party may appeal this decision to the Circuit Court of Kanawha County or to the Circuit Court of Hampshire 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 29, 1986

Sue Keller

SUE KELLER
Hearing Examiner