



Members
James Paul Geary
Orton A. Jones
David L. White

**WEST VIRGINIA EDUCATION
EMPLOYEES GRIEVANCE BOARD**

ARCH A. MOORE, JR.
Governor

Offices
240 Capitol Street
Suite 508
Charleston, WV 25301
Telephone 348-3361

GENEVIEVE MAY

V: DOCKET NO: 12-86-164-2
GRANT COUNTY BOARD OF EDUCATION

DECISION

The grievant comes before the West Virginia Education Employees Grievance Board on appeal from a level three hearing and decision by the Grant County Board of Education wherein the Board affirmed the previous decision of the superintendent.

The grievant, Genevieve May, complains that in October 1985, the route she drove as a bus operator, was changed/enlarged without previous notice to her and without her consent. She seeks supplementary compensation for driving the enlarged bus route or the return of her original bus route.

The record reveals the relevant facts were uncontested in that, the grievant was a regularly employed bus operator with 13 years of experience. In October 1985, the Superintendent of Grant County Schools, Mr. David F. Adkins, without written notice caused the grievant's bus run to be enlarged to include approximately 46 additional miles and approximately one hour driving time. The grievant gave no written consent to this change in schedule or increase of working hours.

A great deal of time and argument was expended by the parties addressing various statutes, namely, WV Code §18A-2-7; §18A-4-8; §18A-2-6 and §18A-4-5b. However, the appropriate statute which is squarely in point is WV Code §18A-4-8a, which in pertinent part provides:

"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."

In as much as there is no dispute concerning the pertinent facts and that the extension of the grievant's route occurred during the school year without written notice or consent, this matter is squarely within the four corners of this Board's previous decision in Josephine Coburn v. Kanawha County Board of Education, Docket No. 20-86-087.¹

For the purposes of this decision, the following findings of fact and conclusions of law are incorporated.

¹Josephine Coburn v. Kanawha County Board of Education, Docket No. 20-86-087 (Sept. 1986) held, inter alia, that the addition of 11.6 miles per day to grievant's bus route was a change of work schedule contemplated by WV Code §18A-4-8a, to which it is required that the grievant give his/her written consent.

FINDINGS OF FACT

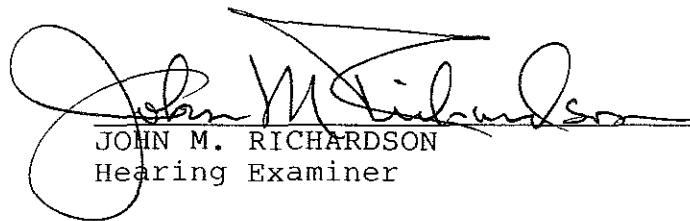
1. Grievant, Genevieve May, is a regularly employed school bus operator, with 13 years of experience.
2. After the beginning of the 85-86 school year and in October, 1985, the grievant's bus route was enlarged.
3. The grievant's original bus route required driving 73 miles per day and after the enlargement in October 1985, the route was 46 miles per day longer and required an additional one hour of driving time.
4. The grievant received no written notice of the enlargement of her bus route and gave no written consent to the extension.
5. The grievant has requested reinstatement of her original bus route or in the alternative, supplemental payment for the extension of her route and daily work hours.

CONCLUSIONS OF LAW

1. WV Code §18A-4-8a provides that no service employees shall have his/her daily work schedules changed without his/her consent.
2. The alteration of a school bus schedule which includes the addition of 46 miles per day is a change of work schedule contemplated by WV Code §18A-4-8a and requires written consent of the school bus operator.
3. School personnel laws and regulations are to be strictly construed in favor of the employee.

For the foregoing reasons, the grievance is granted and the Grant County Board of Education is ordered to pay the grievant a reasonable sum for the increase in her daily work hours which she has already performed. The Grant County Board of Education is further ordered to reinstate the grievant's bus route as it was prior to the unauthorized change or pay a reasonable supplemental sum to the grievant for the enlarged bus route.

The parties are hereby notified that either party may appeal this decision to the Circuit Court of Grant County or the Circuit Court of Kanawha 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.


JOHN M. RICHARDSON
Hearing Examiner

DATED: Oct. 7, 1986