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**WEST VIRGINIA EDUCATION
EMPLOYEES GRIEVANCE BOARD**
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MANUEL ALATIS, et al.

v.

Docket No. 15-86-331-3

HANCOCK COUNTY BOARD OF EDUCATION

DECISION

Grievants, Manuel Alatis, Sue Oboryshko, Carole Bernardino, Richard Barnabei, William Allison, John Grossi, George Dayoub, James Piccirillo, Ronald Daugherty, Allen T. Allison, David Stevens, Betty Buben, Frank Ianni, Charles Sargent and George Tokash are all principals employed by the Hancock County Board of Education who allege violation of W.Va. Code, 18A-4-3 in that the school board has not properly calculated their salaries for their 1986-87 contracts as it pertains to the 200 day minimum employment term and days worked in excess thereof.

This grievance was filed in November, 1986, with a request for an evidentiary hearing. Later, counsel for grievants indicated that a level four hearing would not be necessary. By letter dated February 4, 1987, the parties were requested to send written waivers to that effect in order that the matter be submitted upon the existing

record; those materials have not been received to date.

Grievants aver that all of them hold contracts beyond the minimum 200 day employment term for state teachers and principals. Effective July, 1986, and pursuant to W.Va. Code, 18A-4-2, as amended, during the 1986 First Extraordinary Session, all teachers were granted a \$600.00 salary increase, said amount incorporated into the state minimum salary schedule. Based on the county's 200 day employment term, the raise amounted to a \$3.00 per day increase. Grievants allege that the board is paying them a lesser daily rate than the mandated amount when calculated over their extended employment term.

Grievants maintain that they should receive the full \$3.00 per day for each day they work during the 200 day employment term and for each day worked over the employment term. They rely on W.Va. Code, 18A-4-3, pertaining to principals' salaries:

Salaries for employment beyond the minimum employment term shall be at the same daily rate as the salaries for the minimum employment terms.

Grievants also rely on several decisions of the State Superintendent of Schools which state that a principal who works in excess of 200 days is entitled to be compensated at his daily rate of the minimum employment term. Grievants ask that their salaries be adjusted accordingly, retroactive to July, 1986.

The respondent board does not dispute any of grievants' contentions or allegations, and in fact, presented no evidence, witnesses or testimony at the level two evidentiary hearing conducted September 22, 1986. The board's counsel stated that there was a "shortfall"

and the board could not provide the grievants' requested salary increments.¹

In the decision denying the grievance at level two, the hearing examiner found as a conclusion of law, "The Board of Education's position is not to pay monies for salary increments to principals in excess of monies received from state funds."

FINDINGS OF FACT

1. Manuel Alatis, Sue Oboryshko, Carole Bernardino, Richard Barnabei, William Allison, John Grossi, George Dayoub, James Piccirillo, Ronald Daugherty, Allen T. Allison, David Stevens, Betty Buben, Frank Ianni, Charles Sargent and George Tokash, grievants herein, are all principals employed by the Hancock County Board of Education who work beyond the county minimum 200 day minimum employment term.

2. Following a grievance proceeding in 1979 and until the present 1986-87 school term, Hancock County has paid its principals working in excess of the minimum employment term the same daily rate as the salaries for the minimum employment term.

¹ It is noted that the salary adjustment the grievants are seeking has nothing to do with the principals' increment to their base salary as contemplated by W.Va. Code, 18A-4-3. The monies grievants seek is that amount derived from their county base salary, including the raise mandated by legislation, for remuneration of work performed in excess of the minimum employment term.

3. The state legislature provided a \$600 salary increase for professional educators for the 1986-87 school term and that increase was built into the county minimum 200 day employment term.

4. On or about June 23, 1986, the superintendent of Hancock County Schools presented proposed salary schedules to the board of education. The amounts determined for principals was consistent with past practice since 1979 and in accordance with law.

5. The board directed the superintendent to resubmit the scales reflecting only actual dollars received from the State in each individual classification and he did so on July 10, 1986.

6. The redetermination and subsequently approved principals' salaries deprived grievants of accurately calculated remuneration for their base minimum employment term combined with days worked in excess of the minimum employment term.

CONCLUSIONS OF LAW

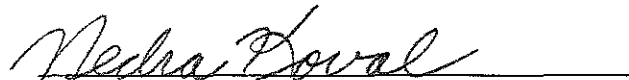
1. A school board must calculate a principal's base salary according to county salary scales for teachers and within the context of a 200 day minimum employment term. W.Va. Code, 18A-4-2; W.Va. Code, 18A-4-3; W.Va. Code, 18-5-15.

2. A school board has a nondiscretionary duty to calculate principals' salaries for employment beyond the minimum employment term at the same daily rate as the salaries for the minimum employment terms. W.Va. Code, 18A-4-3.

The principals, grievants herein, have proven entitlement to salary adjustments whereby each day worked in excess of the county minimum 200 day employment term reflects the daily rate of the base minimum employment term providing a \$3.00 per day raise effective July 1, 1986.

Accordingly, this grievance is GRANTED and the school board is directed to properly recalculate and pay each principal's salary retroactive to July 1, 1986.

Either party may appeal this decision to the Circuit Court of Kanawha County or Hancock County and such appeal must be filed within thirty days of receipt of this decision. (W.Va. 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.



NEDRA KOVAL

Hearing Examiner

Dated: March 30, 1987