



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

L. KAY CARPENTER

v.

DOCKET No. 51-86-250-2

WEBSTER COUNTY BOARD OF EDUCATION

DECISION

The grievant, L. Kay Carpenter, is employed by the Webster County Board of Education and holds the position of Director of Special Education and Chapter One programs. Ms. Carpenter alleges a violation of W. Va. Code, 18A-4-5a in that she does not receive a salary supplement comparable to that of a similarly situated program director. The grievance was denied by the Webster County Board of Education and by agreement of both parties has been submitted to level four on the record.

The facts of this matter are undisputed. Ms. Carpenter has been employed in an administrative position by the respondent since 1976. Her present title is Director of the Special Education and Chapter One programs although she is also responsible for the homebound instruction program and for the maintenance of student records. The grievant's present salary is \$35,616.00 as determined by the teacher's salary scale plus a monthly supplement.

Prior to the 1986-1987 school term the board of education hired a Director of Curriculum and Instruction at a set salary of \$37,800.00. The respondent justifies the salary discrepancy by stating that the grievant's duties are limited to the Special Education and Chapter One programs whereas the Director of Curriculum and Instruction is responsible for continuing education programs for employees in all areas of the curriculum. As the Director of Curriculum and Instruction is also in charge of county accreditation, he oversees the contributions of other directors.

The respondent argues that it is not subject to limitations or guidelines by W. Va. Code, 18-5-32 and 33 in establishing salaries of general and specific directors. The respondent cites the case of Karen Keesecker v. Lewis County Board of Education, Docket No. 21-86-020-2, in support of its claim that a board of education may fix special salary schedules for the Superintendent, his assistants and other employees so long as the schedule does not conflict with the general provisions of Chapter 18 of the W. Va. Code.

In addition to the foregoing it is appropriate to make the following specific findings of fact.

Findings of Fact

1. The position guides for Director of the Special Education/Chapter One programs and the Director of Curriculum and Instruction indicate the following:

a. Qualifications:

Director of Sp. Ed./Chapter I:

MA in Special Education plus five years teaching experience.

Director of C & I:

Minimum Master's Degree in Administration or Supervision plus successful teaching experience.

b. Areas of Responsibility:

Director of Sp. Ed./Chapter I:

Continuing Education, Chapter One.

[The record also indicates this individual is responsible for homebound instruction and student records.]

Director of C & I:

None listed.

[The record indicated this individual is responsible for all phases of Curriculum and Instruction including continuing teacher education and county accreditation.]

c. Term of Employment:

Both directors are employed for twelve months.

d. Salary:

Director of Sp. Ed./Chapter I

Based on state salary schedule plus \$150.00 per month.

Director of C & I:

To be set by the board.

2. The position guides indicate that qualifications are more rigorous and job responsibility is more extensive for the Director of Special Education/Chapter One programs than for the Director of Curriculum and Instruction.

3. Both positions entail working with other employees in program development as opposed to working with students or parents.

4. The board of education employs three additional directors who receive less compensation than the grievant; however, they are not comparable to the Director of Curriculum and Instruction and the Director of the Special Education/Chapter One programs. The Vocational Director has an employment term of only 10.5 months per year, the Attendance Director has an employment term equal to that of teachers and the Director of Transportation is a service personnel position.

Conclusions of Law

1. Although not enacted at the same time, Chapters 18 and 18A of the W. Va. Code should be considered in pari materia, and therefore read and considered together. Smith v. Siders, 155 W. Va. 193; 183 S.E. 2d 433 (1971); Trimboli v. Board of Education, 254 S.E. 2d 561 (W. Va. 1979).

2. W. Va. Code, 18-5-33 provides that a board of education may fix special salary schedules for administrators, teachers and other employees so long as the schedule does not conflict with the general provisions of Chapter 18.

3. A county board of education may establish salary schedules in excess of minimum salaries. The excess salaries are to be uniform throughout the county as to training classification, experience, responsibility and other requirements. W. Va. Code, 18A-4-5a.

4. Job Posting Guides indicate the Director of the Special Education/Chapter One programs must meet qualifications and assume responsibility equal to or exceeding those required of the Director of Curriculum.

Accordingly, the grievance is GRANTED.

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

DATE February 17, 1987

Sue Keller

SUE KELLER
Hearing Examiner