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**WEST VIRGINIA EDUCATION
EMPLOYEES GRIEVANCE BOARD**

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KAREN SUE CONNOR

v.

Docket No. 01-86-197-2

BARBOUR COUNTY BOARD OF EDUCATION

DECISION

Grievant, Karen Sue Connor, is employed by the Barbour County Board of Education as a regular full-time bus operator. In April, 1986, Ms. Connor filed a grievance alleging that she had been bypassed in the rotation of extracurricular assignments in violation of W. Va. Code, 18A-4-8b. The grievance was denied at levels one and two and the board of education waived consideration to level four where, after much difficulty in scheduling, oral arguments were presented on December 1, 1986.

The facts in this matter are uncontroverted. In April, 1986 an error was made in the assignment of bus operators for extracurricular trips.¹ As a result, the grievant was bypassed for the assignment on April 17, 1986 to which she was entitled under the rotation system. On April 16th, the

¹Ms. Connor's level one grievance form indicates that the error may have been due to inaccurate recordkeeping regarding her previous assignment.

error was brought to the attention of the Transportation Director who would not correct the assignment as the trip was scheduled in less than twenty-four hours.² However, the grievant was offered the next assignment which was similar in time and salary to the one for which she was bypassed. The grievant refused the offer on two occasions as it involved less pay, was inconvenient and provided a less satisfactory working situation.³ The grievant now requests that she be compensated for the assignment to which she was entitled.

The board of education argues that it acted prudently in offering the grievant a similar assignment and that it cannot arbitrarily compensate an employee for services which were not rendered.

In addition to the foregoing factual recitation the following specific findings of fact are appropriate.

Findings of Fact

1. Grievant is employed by the Barbour County Board of Education and holds a regular full-time position as bus operator.

²Edward Larry, Transportation Director, testified at the level two hearing that it is his policy not to change extracurricular assignments with less than twenty-four hours notice due to difficulty in contacting the bus operators. (T.p. 2).

³Time schedules indicate the assignment offered to the grievant in lieu of the April 17th trip was one hour shorter.

2. The grievant was bypassed on rotation for an extracurricular assignment on April 17, 1986.

3. The grievant does not allege, nor does it appear that the action was intentional, but rather occurred as a result of a clerical error.

4. The grievant brought the error to the attention of the Transportation Director on April 16th, however the trip was not reassigned to her based on the department's policy that changes will not be made less than twenty-four hours prior to a trip.

5. In an effort to compensate for the error the grievant was twice offered a similar assignment.

6. The grievant refused the offer on both occasions as she would receive less pay, it was inconvenient for her and it provided a less satisfactory work situation.

Conclusions of Law

1. W. Va. Code, 18A-4-8b requires that the employee with the greatest seniority be given priority in accepting extracurricular assignments, followed by other employees on a rotating basis according to seniority until all employees have had an opportunity to perform similar assignments.

2. An error made in the assignment of extracurricular bus trips resulting in an employee receiving an assignment

slightly out of the rotation order does not entitle that employee to compensation for the trip to which they would have been properly assigned.

3. The board of education acted quickly and reasonably when the error was discovered by offering the grievant the next similar assignment.

Accordingly, the grievance is DENIED.

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

DATED: January 26, 1987

Sue Keller
SUE KELLER
Hearing Examiner