



REPLY TO:
101 Harper Park Drive
Suite D
Beckley, WV 25801
Telephone: 255-6155

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

CLAUDIA COOK

v.

DOCKET NO. 55-87-014-4

WYOMING COUNTY BOARD OF EDUCATION

DECISION

This grievance comes before the West Virginia Education Employees Grievance Board on appeal from a level three review affirming the decision of the county superintendent. Whereupon, the grievant waived in writing the statutory requirement that a hearing be held within ten days and that a decision be rendered within thirty days thereafter. Upon agreement of the parties, the hearing was set for February 24, 1987, and was thereafter continued by agreement to March 12, 1987. At that time a hearing was held before John M. Richardson, Hearing Examiner, at 101 Harper Park Drive, Suite D, Beckley, West Virginia.

For her grievance the grievant, Claudia Cook, complains that she, as a regularly employed Cook II, applied for a school secretarial position and was not hired. The position was filled

by a substitute secretary. The grievant maintains that this is a violation of WV Code §18A-4-8b(b) and that WV Code §18A-4-15 has been misapplied. By way of remedy, the grievant seeks to be instated to the position together with back pay.

The evidence reveals that the grievant has been regularly employed for three years as a Cook II and that she applied for a posted position of secretary at Glen Fork Grade School. Thereafter, she, together with all of the applicants, took a competency test consisting of two parts.¹ The grievant passed the written portion but failed the skills (typing) portion.

While there was considerable evidence taken concerning the regular or substitute status of the successful applicant and the "reference statements" in the job posting, those matters/issues need not be determined in order to resolve this grievance.²

This board has held that a county board of education is permitted to require a competency test for applicants seeking a

¹No evidence was adduced which showed that the test was not uniformly applied to all applicants.

²The job posting (part of Joint Exhibit #2) contained the heading of 'Minimum Qualifications' under which was listed the following:

1. Must have a high school diploma or equivalent
2. Must have had two (2) years of typing
3. Ability to take shorthand preferred
4. Must have bookkeeping experience and be able to use office machines
5. Dependable work record and prior experience preferred

position outside their classification. However, the tests should be uniform. Beckett v. Raleigh County Board of Education, Docket No. 44-86-107; Adkins v. Logan County Board of Education, Docket No. 23-86-024.

In light of these holdings, it is apparent that the grievant could not meet the qualifications of the classification, and therefore, it is unimportant whether or not the successful applicant was a regular or a substitute employee. In this grievance, the grievant is not entitled to the relief that she seeks.

Furthermore, it is clear from the evidence that the successful applicant, while being a substitute secretary, nevertheless held the classification of secretary and had passed the test(s) which the grievant failed.

In addition to the foregoing, the following findings of fact and conclusions of law are incorporated herein.

FINDINGS OF FACT

1. The grievant, Claudia Cook, is a Cook II regularly employed by the Wyoming County Board of Education.
2. The grievant applied for the position of secretary at Glen Fork Grade School.
3. All of the applicants were given the same two tests consisting of a written portion and a typing skills portion.
4. The grievant failed to pass the typing skills portion of the test which was an essential portion of the qualifications.

necessary for the classification of secretary and of the secretarial position sought by her.

5. The successful applicant was classified as a secretary and also passed the qualifications test(s).

6. The grievant did not possess the preferred shorthand skills.

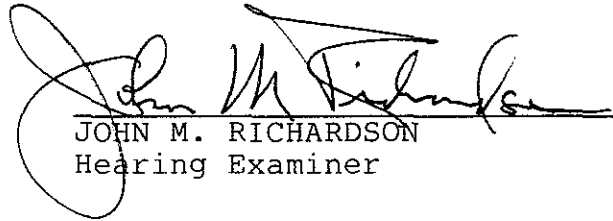
CONCLUSIONS OF LAW

1. WV Code §18A-4-8b provides that qualifications shall mean that the applicant hold a classification title in the category of employment sought and must be given first opportunity for promotion and filling vacancies; that other employees then be considered and shall qualify by meeting the definition of the job title as defined in Section 8 of Article 4, that relates to the promotion or vacancy. Beckett v. Raleigh County Board of Education, Docket No. 41-86-107.

2. A county board of education is permitted to require a competency test for applicants seeking a position outside their classification. However, the tests should be uniform. Beckett v. Raleigh County Board of Education, Docket No. 41-86-107; Adkins v. Logan County Board of Education, Docket No. 23-86-024.

For all of the foregoing reasons, the grievance is DENIED.

Either party may appeal this decision to the Circuit Court of Wyoming County or the Circuit Court of Kanawha County and such appeal must be filed within thirty (30) days of receipt of this decision. (WV 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: May 28, 1987