



**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

GENE FARMER

v.

DOCKET NO. 23-87-052-4

LOGAN COUNTY BOARD OF EDUCATION

D E C I S I O N

The grievant, Gene Farmer, has been a classroom teacher for the Logan County Board of Education since the beginning of the 1971-72 school term. During the 1986-87 school term Mr. Farmer applied for the position of Dean of Students at Chapmanville High School, was granted an interview and turned down for the job.<sup>1</sup> He then filed a Level I grievance alleging his rejection was part of an on-going practice of nepotism on the part of the Logan County Board of Education. Grievant further alleged the Board had improperly allowed political influence to affect its hiring decisions and

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<sup>1</sup>The record does not reflect and the grievant did not indicate the date he applied for this position; the Board has not raised the issue of timeliness as it relates to the grievant's rejection for this job.

in his case this influence and nepotism had caused his rejection from at least five posted positions with the Board beginning in 1977.<sup>2</sup> The grievant proceeded to a Level II hearing and the parties waived the Level III hearing. A Level IV evidentiary hearing was held on November 6, 1987.<sup>3</sup>

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<sup>2</sup>At the Level IV evidentiary hearing the Board did object, on the grounds of timeliness, to the introduction of evidence of grievant's experience with previous applications dating back to 1977 and evidence presented concerning applications for those jobs was only considered insofar as it related to the grievant's charge that his most recent rejection was the result of on-going practice of favoritism and nepotism on the part of the Board.

<sup>3</sup>Grievant apparently requested a transcript of the Level II hearing in preparation for a hearing before the Logan County Board of Education but was informed the tape had been erased and/or recorded over. At the Level IV hearing the grievant was advised the he could move for a continuance until witnesses present at the Level II hearing could be called to testify and he elected not to do so; he indicated he would prefer the decision in this case be based on evidence produced at the Level IV hearing and his proposed findings of fact and conclusions of law.

Grievant's charges essentially amount to a basic allegation that the Logan County Board of Education engaged in favoritism when it filled the position of Dean of Students at Chapmanville High School and as the more qualified candidate he should have been given the job. W.Va. Code, 18A-4-8b(a) requires county school boards to fill positions or make promotions on the basis of qualifications and when a grievant alleges violation of that section he must substantiate those charges by a preponderance of the evidence. Wade v. Marion County Board of Education, Docket No. 24-86-248-3; Butta v. Ritchie County Board of Education, Docket No. 43-86-315-3; Harrison v. Kanawha County Board of Education, Docket No. 17-87-082-2.

At the Level IV hearing grievant extensively questioned and cross-examined Mr. Garrett, Associate Superintendent of Schools, and Mr. Akers, Assistant Superintendent of Schools. Mr. Garrett was a member of the committee which interviewed persons for the Dean of Students position and made recommendations to the Superintendent of Schools and he testified he was aware of no improprieties in that selection process. Grievant placed great weight on the fact that a Mrs. Blanche Gore, another member of that committee, had informed him that her opinion was not requested when the recommendation was made but the testimony of other witnesses indicated she also had input on the final selection.

Aside from the grievant's own assertions that he felt the Board was engaged in political patronage, there was virtually no evidence presented to substantiate those charges.<sup>4</sup>

Additionally, grievant on his original grievance form alleged violations of certain constitutional rights but presented no evidence of such at the Level IV hearing; thus, those allegations of a grievance not developed are considered abandoned.

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

#### FINDINGS OF FACT

1. Grievant, Gene Farmer, has been employed as a classroom teacher for the Logan County Board of Education since the 1971-72 school term.
2. During the 1986-87 school term grievant applied for the position of Dean of Students at Chapmanville High School, was given an interview but was rejected for the job.
3. Grievant failed to prove by a preponderance of the evidence that the decision to fill the Dean of Students position was not made on the basis of the applicant's qualifications.

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<sup>4</sup>Grievant introduced into evidence several copies of newspaper articles wherein a former  
(footnote cont.)

CONCLUSIONS OF LAW

1. W.Va. Code, 18A-4-8b(a) requires county school boards to fill positions or make decisions affecting promotions on the basis of qualifications and when a grievant alleges violations of that section of the W.Va. Code, he must substantiate those charges by a preponderance of the evidence. Wade v. Marion County Board of Education, supra; Butta v. Ritchie County Board of Education, supra; Harrison v. Kanawha County Board of Education, supra.

2. In the grievance procedure, allegations raised but not developed or pursued will be considered abandoned. Church v. McDowell County Board of Education, Docket No. 33-87-214.

Accordingly, the grievance is DENIED.

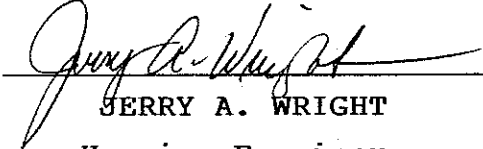
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(footnote cont.)

superintendent of schools made strong denunciations of what he perceived to be a practice of nepotism and influence peddling on the part of the Logan County Board of Education but as the grievant could not make any direct connection with those charges and his own, they were afforded no weight in the decision of this case.

It should also be noted that grievant indicated he was well aware he could have subpoenaed witnesses, including persons present at the Level II hearing to the Level IV evidentiary hearing and chose to call no one and relied heavily on his opening remarks and assertions made throughout the course of the hearing.

Either party may appeal this decision to the Circuit Court of Logan County or the Circuit Court of Kanawha County and such appeal must be filed within thirty (30) days of receipt of this decision. (W.Va. Code, 18-29-7). Please inform this office of your intent to do so in order that the record can be prepared and transmitted to the Court.

  
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JERRY A. WRIGHT  
Hearing Examiner

DATED: December 16, 1987