



Members
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**WEST VIRGINIA EDUCATION
EMPLOYEES GRIEVANCE BOARD**
ARCH A. MOORE, JR.
Governor

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JEFFREY G. HILBERT

v.

DOCKET NO. 26-87-240-1

MASON COUNTY BOARD OF EDUCATION

ORDER

On September 14, 1987 grievant filed a level four appeal with the Education Employees Grievance Board alleging that he should have been appointed to the position of Point Pleasant Junior High Band Director; an evidentiary hearing was scheduled for December 16, 1987. On December 16, 1987 the grievant appeared in person and with his counsel, Ronald R. Morgan II, Esquire, and the board of education was represented by its Superintendent of Schools, William A. Barker, Jr., and by counsel, Diana L. Johnson, Esquire.

Whereupon the hearing examiner heard oral argument of counsel and admitted into evidence a copy of the transcript of evidence of the level two hearing and other exhibits. Counsel for the respective parties represented to the hearing examiner that they were in agreement that grievant was entitled to the position in question and would enter into an agreed Order to be submitted to the hearing examiner for consideration of entry.

However, by letters dated December 21 and 22, 1987, the hearing examiner was advised that counsel could not agree on a proposed Order and an unsigned Order was submitted by each attorney; in the alternative it was suggested that the hearing examiner enter the Order based upon his understanding of the agreement. In accordance with all of the foregoing the hearing examiner finds that:

1. The parties agree that the grievant is and was entitled to the position of Band Director at Point Pleasant Junior High School pursuant to Mason County Board of Education Policy 805 and State law, and,

2. The grievant acknowledges that it is in the best interests of the students at Point Pleasant Junior High School and Hannan High School that any change in directors occur at the beginning of the 1988/89 school term, for which grievant is to be commended, and,

3. Grievant is willing to accept the position of band director at Point Pleasant Junior High School effective on the first day of July, 1988 but does not intend to permit the relinquishment of the present right to the position to prejudice the outcome of the instant grievance.

It is accordingly Ordered that grievant is entitled to and

is awarded the position of band director at Point Pleasant Junior High School effective July 1, 1988 and that the board of education is directed to deliver a letter of intent to grievant carrying out the intent of this Order as soon as practicable.



LEO CATSONIS
Chief Hearing Examiner

Date: December 23, 1987