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**WEST VIRGINIA EDUCATION  
EMPLOYEES GRIEVANCE BOARD**

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**MARY MARLING**

**v.**

**Docket No. 25-86-368-3**

**MARSHALL COUNTY BOARD OF EDUCATION**

**DECISION**

Mary Marling, grievant, has been employed by the Marshall County Board of Education since 1978 in various secretarial-clerical assignments and her present position is classified as Secretary/Aide. She alleges violation of W.Va. Code, 18A-4-8 and W.Va. Code, 18A-2-1 by the school board in its multiclassification of her position.

This grievance was denied at levels one through three and a brief level four hearing was conducted, by agreement of the parties, on November 19, 1986, at the Marshall County Board offices by the undersigned hearing examiner. At that time the transcript of the level two evidentiary hearing, conducted August 25, 1986, was formally introduced into evidence and testimony was taken for the purpose

of supplementing the existing record.<sup>1</sup>

Grievant and respondent are in agreement concerning the basic facts giving rise to this dispute. A job was posted for a secretary II/aide at Cameron Elementary School. The position at Cameron school had formerly been entitled "Secretary II." Grievant, previously classified as "secretary" with work experience in both the county office and a high school, and three persons classified as "aide" applied for the position as posted. The grievant was ultimately offered the position after the first candidate-aide who was selected withdrew her bid.<sup>2</sup>

Grievant asserts that the classification of "Secretary/Aide" is illegal and was conceived by Walter Simms, principal at Cameron Elementary and Steven Bland, an administrative assistant with the board, whom she characterizes as "very good" personal friends. She

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<sup>1</sup> The parties agreed to furnish the hearing examiner with a transcript of the November 19 proceedings, but due to oversight it was not received until February 16, 1986, after several inquiries to grievant's counsel and the school board offices. The examiner withheld completion of the draft copy of the decision until the transcript could be cited properly. References to the level two hearing shall be cited as (T2\_\_) and references to the level four hearing as (T4\_\_).

<sup>2</sup> As found on the level one pleadings, grievant originally grieved because she was not selected for the position. Although that matter was amended during the level two proceedings and is moot, it has some bearing on grievant's perception of the remaining issues in this grievance.

identifies their action as "collusion" since Dr. Robert Ingram, whose duties include employment and supervision of aides, was not included in the decision making process to alter the classification. The reclassification, she alleges, was intended to deprive her of the job because the multiclassification could give a more senior aide that the administrators had preselected priority over her for the position. Besides questioning the legality of the multiclassification, grievant objected to many of the duties outlined in the job description and a requirement that applicants be interviewed for the position, both of which she claims, were not part of or required for the position in the past.

Grievant argues that the classification of "Secretary II/Aide" is not found in W.Va. Code, 18A-4-8 although each classification exists individually and that the statute only authorizes the State Department of Education to create new classifications; therefore, combining any two existing classifications is forbidden. She maintains then, that the recognition of multiclassification by the State Department of Education is violative of the statute. Lastly, grievant contends that first aid and pupil supervision duties are improper for a secretary II position as it is not a position requiring professional educator certification and cites W.Va. Code, 18A-2-1. For relief grievant asks that her position of "Secretary II/Aide" be reclassified to "Secretary II" and that she be relieved of all duties outside the scope of that position as well as certain other

clerical duties she objects to performing.<sup>3</sup>

The school board denies all allegations that school administrators colluded to deprive grievant of the position she was ultimately awarded. It argues that the language of the statute, W.Va. Code, 18A-4-8, does not prohibit multiclassification of service personnel. The respondent board further relies on the longstanding recognition of multiclassification by the State Department of Education and its Bureau of School Finances.<sup>4</sup>

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<sup>3</sup> Grievant originally asked, in her level one filing, that the county's written service personnel policies, particularly for secretaries, be rewritten; that an administrative assistant, principal and three school board members be publicly censured and relieved of their positions; and that she should "IMMEDIATELY" receive a public admission of guilt and an apology from the mentioned administrative employees.

<sup>4</sup> Relevant portions of W.Va. Code, 18A-4-8:

The county boards shall review each service personnel employee job classification annually and shall reclassify all service employees as required by such job classifications.

...

The state board of education is authorized to establish other class titles of service personnel positions and jobs not listed in this section. The state board of education is further authorized to provide appropriate pay grades for such positions and jobs but pay shall be established within the minimum salary scale in section eight-a of this article.

Respondent had previously submitted an 1981-82 document from the bureau, "UPDATING PERSONNEL SERVICES SCHEDULES". At the level four hearing an identical document bearing an 1986-87 date was admitted into evidence. (T4-15). Relevant portions of that document counsel:

"MU or EX CODE" Column - Service Personnel Only (Positions Codes 501 to 690) - This column is to be used only in the following instances:

A. "MU" Code (Multi-Classification employee) - When an employee performs tasks that involve the combination of two or more Service Personnel position codes, two or more lines are required, each line to indicate the  
(footnote continued)

At the level two hearing grievant testified that she objected to being interviewed for the position because, "It wasn't just the content of the interview, it was the fact that I had to be interviewed." (T2 18). Apparently, the school principal did not interview other new service personnel, namely a cook and custodian. However, all applicants for the secretary/aide position were interviewed. When cross-examined by the board's counsel, grievant said an explanation of the position's duties were not necessary, that she had been a secretary for a number of years and knew the duties expected of her. She did admit that she had not previously worked at an elementary school where very young children would be present but she still failed to see there may be different needs at an elementary school. (T2 28, 30). Grievant had no previous experience as an aide.

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(footnote continued)

hours per day and annual salary proportionate to the position code.

...  
"Multi-Classification means personnel employed to perform tasks that involve the combination of two or more class titles as prescribed in Section 8, Article 4, Chapter 18-A, or as created by the West Virginia Board of Education. In such instance the minimum salary scale shall be the higher pay grade of the class titles involved." (SBE 5/9/75)

Grievant's objections to the duties and responsibilities of the multiclassified position were primarily focused upon what would be the non-clerical responsibilities of an aide.<sup>5</sup> However, grievant also objected to some of the clerical responsibilities of the position. She felt that, even after training, computer or word processing tasks which may be required of the position would be "rather time consuming." The board's counsel pointed out that those skills and tasks are commonplace in modern offices and would be in accord with a secretary's job. Grievant responded, "Not as far as I am concerned. I am not aware that the previous secretary did that." (T2 30,31,32). She objected to, "Aids in the preparation of teacher materials, knowledge concerning use of duplicator, copier, thermofax, laminator, mimeograph, computer, printer, et cetera." She stated that it was a teacher's responsibility to prepare their instructional aids and "not the secretary's to do the work for them." (T2 33).

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<sup>5</sup> Grievant specifically objected to "1) supervision of children when need arises (emphasis added): "in the nurse's office, bus line, playground, or lunch room; "2) minister to sick children in the absence of a nurse" such as to administer first aid, determine if child needs to be sent home, contact parents of sick child, change ill child's clothing if accidentally dirtied, and be friendly, helpful and courteous when dealing with sick children; to deal with handicapped or disabled students when assistance is needed; "accompany children on field trips when need of supervision arises"; and help with the children during parties and plays, etc.

Grievant also objected to, "Assist teacher in recording attendance, lunch count, grades, et cetera." She interpreted "assist" to be, in fact, a requirement to perform those duties and, "I don't think any secretary should have to do a teacher's work," and maintained that she was required to do so at Cameron High School. (T2 34). Grievant lastly objected to handling audio-visual equipment if the need arose and also to order items and maintain records of monetary transactions for Early Childhood food programs, "because I believe that's more properly the duty of the cook and not the secretary."<sup>6</sup> (T2 35).

At one point grievant indicated her belief that the job title of the position had been changed "[o]nly in name", but not the duties. She said the principal told her the reclassification from secretary to secretary/aide was effected because he knew secretaries could not be forced to do those duties of an aide. (T2 37, 38).<sup>7</sup>

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<sup>6</sup> It is noted that although grievant denied that she wished to "dictate" employment matters to the superintendent and the school board (T2 37), the overwhelming evidence seems to indicate that she had some difficulty accepting and adapting to the needs, requirements, and the environment of a school-house secretary and instead held fast to her knowledge and expectations of a secretary assigned to an administrative office.

<sup>7</sup> Grievant, it appears, had contradictory beliefs regarding the multiclassification, i.e., a conspiracy to deprive her of the job and an attempt to "legally" impose upon a secretary other employees' responsibilities and what amounted to more work than anyone could handle.

Grievant's testimony at the level two hearing suggested that all of the responsibilities of the multiclassified position were overly burdensome. However, prior to that hearing, she had not yet begun her duties as secretary/aide at Cameron Elementary School. Grievant had begun her duties at the time of the level four hearing but she offered no testimony or supporting evidence as to whether her tasks at Cameron Elementary were, in fact, onerous or excessive.<sup>8</sup>

In regard to the reclassification of her position, grievant called up Dr. Howard Ingram to testify. Dr. Ingram is the assistant superintendent of schools with elementary education responsibilities and is in charge of the employment and supervision of media, special ed and early childhood aides. He stated that under most circumstances he would be consulted in regard to the creation of an aide position and was not aware of any previous secretary/aide multiclassifications in the county. He acknowledged that the school board had approved a hiring for the secretary/aide classification position. (T4 11,12,

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<sup>8</sup> This matter was originally set for a level four hearing November 13, 1986, in Elkins, West Virginia, at which time grievant's counsel requested subpoenas for several persons and this board complied with his request. He then requested a continuance because of hardship upon the many witnesses to travel from Marshall County to Elkins. The parties eventually agreed to reschedule for hearing on the 19th in Moundsville, Marshall County, said letter-notice of the rescheduled and relocated hearing bearing date of November 13, 1986. At the hearing, grievant's counsel stated that due to time constraints he did not subpoena the witnesses again but that he asked the witnesses to "show up again." Their non-appearance did not "trouble" him because, "We are not inconvenienced or prejudiced so we are going to go forward." He stated, "...their testimony would have simply corroborated what [grievant] said and be peripheral in nature." (T4 5,6).

13). Generally, W.Va. Code, 18A-4-8 defines school aides as, "...those personnel selected and trained for teacher-aide classifications such as monitor aide, clerical aide, classroom aide or general aide." The statute clearly allows a wide range of "aide" categories beyond those specifically attended to by Dr. Ingram.

The respondent board called upon Mr. Steven Bland to discuss his development of the posting for the position. Mr. Bland testified that he had been directed by the school superintendent to discuss the matter with the principal, Mr. Simms, and to determine the job duties at Cameron Elementary. He related that he did not discuss the matter with Dr. Ingram since he had received his instructions directly from the school superintendent.<sup>9</sup>

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

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<sup>9</sup> See, Yoho v. Marshall County Board of Education, Docket No. 25-86-129-2 for a discussion related to the apparent need of a school board to utilize multiclassification for efficient and effective operation of its school system.

## FINDINGS OF FACT

1. Grievant, Mary Marling, had been employed by the Marshall County Board of Education for a number of years as a secretary in an administrative office and in a high school but recently bid on and accepted a position as Secretary II/Aide at Cameron Elementary school.

2. The newly created position for a secretary II/aide at Cameron Elementary was posted in July 1986. The school had not formerly utilized a secretary/aide, but had previously employed a secretary and four aides.

3. An assistant superintendent who is normally in charge of the employment and supervision of media, special ed and early childhood aides was not consulted regarding the multiclassification.

4. The multiclassified position was created by the board's administrative assistant upon direction from the school superintendent and after consultation with the school's principal who outlined the school's needs and the duties required for the position.

5. The grievant and several aides bid on the position as posted. The posting stated that both clerical and child-related duties would be required and that an interview may be necessary.

6. The principal of Cameron Elementary interviewed all candidates for the position and presented a detailed list of duties with explanation. He did not interview candidates for other service personnel positions not requiring possible close interaction with children.

7. The school board approved of the multiclassified position and by unanimous vote selected a candidate other than the grievant.

8. Grievant filed a grievance charging violation of seniority and other laws in that she was the most senior secretary and that the position was unlawfully reclassified in order to deprive her of the position. She listed numerous other charges, complaints and remedies.

9. When the first-selected candidate subsequently declined the position, it was then offered to grievant and she accepted the multiclassified position and modified her grievance to request that she be reclassified as a secretary II with no child-related duties and deletion of several clerical tasks.

10. Grievant presented no specific testimonial evidence or other corroboration that her duties as secretary/aide were onerous.

11. Clerical tasks required of grievant appear to be within the ambit of a secretary's duties.

12. It was not contemplated by the board of education nor school administrators that grievant perform the tasks of a nurse or other professional personnel but that she perform the duties of a general aide on an "as needed" basis: to assist with the unexpected and unforeseen ministrations to a sick or injured child, and to assist, in the manner of an aide under the supervision of the principal or his designee, with the students and their occasional activities or needs at Cameron Elementary.

13. Working in the environs of an elementary school where young children are present entails some risk on the part of every employee who chooses such employment.

14. The record does not support a finding that school administrators colluded, conspired or behaved in a manner to grievant's detriment.

#### CONCLUSIONS OF LAW

1. Multiclassification of job titles and duties is long recognized by the State Department of Education, is necessary for the efficient operations of schools and is not prohibited by even a strict construction of the relevant law. W.Va. Code, 18A-4-8; See generally, Everett E. Yoho v. Marshall County Board of Education, Docket No. 25-86-129-2.

2. County boards of education have substantial discretion in matters relating to hiring, assignment, transfer and promotion of school personnel but such discretion must be reasonably exercised, in the best interests of the schools, and not in an arbitrary and capricious manner. Dillon v. Wyoming County Board of Education, 351 S.E.2d 58 (W.Va. 1986).

3. Aide duties expected of grievant do not parallel those of a professional employee nor require eligibility classifications as contemplated by W.Va. Code, 18A-2-1.

4. Clerical duties expected of grievant are not contrary to those outlined in the statute nor listed as duties expected of a cook. W.Va. Code, 18A-4-8.

5. It is incumbent upon a grievant seeking relief pursuant to W.Va. Code, 18-29-1, et seq., to prove the allegations constituting the grievance by a preponderance of the evidence. June Richards, et al. v. Hancock County Board of Education, Docket No. 15-86-170-2.

For the foregoing reasons and based upon the record in its entirety, this grievance is DENIED.

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

Nedra Koval

NEDRA KOVAL  
Hearing Examiner

Dated: March 9, 1987