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**WEST VIRGINIA EDUCATION  
EMPLOYEES GRIEVANCE BOARD**  
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SARAH ROBERTS  
and  
LINDA RASNAKE

v.

DOCKET NO. 55-86-322-4

WYOMING COUNTY BOARD OF EDUCATION

DECISION

This grievance comes before the West Virginia Education Employees Grievance Board pursuant to a waiver, in writing, by the Wyoming County Board of Education to level four. A level four evidentiary hearing was held before John M. Richardson, Hearing Examiner. Subsequently, the parties filed findings of fact and conclusions of law which were considered in arriving at this decision.

Grievants, Linda Rasnake and Sarah Roberts, are regularly employed as multi-classified bus operators/custodians. They complain that the multi-classification of bus operators/custodians is prohibited by law; that they each work forty hours per month performing their custodial duties for a \$50.00 supplement and that travel time from the designated parking site of their buses (their home)

to their first bus stop should be included as part of their work time. For relief, the grievants seek to have the custodial duties removed from their contractual obligation and pay of one-half time custodial wages for the period they have been employed as bus operators/custodians.

In reply, the respondents urge that no violation of law has occurred as a result of the multi-classification, which is consistent with WV Code §18A-4-8. Further the respondent contends that the \$50.00 is only a supplement and without the performance of custodial duties the grievants would only be considered as half-time employees.

The evidence reveals that grievants applied for their multi-classified jobs in July 1983. There is some conflict in the evidence regarding the necessity for the need of multi-classified duties; however, it is clear that both grievants were aware that they would perform bus duties and custodial duties.<sup>1</sup> It is also clear that by combining all of the time the grievants are performing bus duties and custodial duties that neither of them works in excess of seven and one-half (7½) hours per day.<sup>2</sup>

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<sup>1</sup>The grievants testified they were misled about the need for custodial duties in their contracts in order to make them full time employees. They believe that if their driving time to the first bus stop were included in their work day, that they would be working enough hours to be considered full time and the two hours per day performing custodial duties would not be necessary.

<sup>2</sup>It was uncontested that the regular work day for Wyoming County Board of Education employees is seven and one-half (7½) hours.

While the grievants alleged that they were led to believe that in order to become full time employees they had to accept the custodial portion of their contracts, that issue was never developed. Thus, the terms of the contract must be treated as having been entered into knowingly, voluntarily and absent any basis for setting it aside.

This leaves the question(s) regarding multi-classification and minimum wage requirements relating to the \$50.00 per month custodial duty supplement for forty hours per month work.

According to the grievants' testimony and their individual contracts, the grievants are each paid \$1,091.00 per month plus \$50.00 each month as a supplement. They each work less than seven and one-half ( $7\frac{1}{2}$ ) hours per day during a five day work week.<sup>3</sup> This clearly is within the minimum wage/hour requirements provided by law.<sup>4</sup>

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<sup>3</sup>Giving the grievants the benefit of the doubt in every respect, each could claim only six and one-half ( $6\frac{1}{2}$ ) hours of work per day plus an additional thirty minutes for lunch.

<sup>4</sup>The grievants' only contention was that the \$50.00 per month supplement was the pay they received for the forty hours per month for performing custodial duties. This contention is without merit since it is readily conceded that this was a "supplement" and that their wages were actually \$1,091.00 plus \$50.00 for a total of \$1,141.00 per month.

This board has determined that multi-classification of job titles and duties has been long recognized by the State Department of Education, is necessary for the efficient operation of schools and is not prohibited by even a strict construction of the revelant law (WV Code §18A-4-8). Marling v. Marshall County Board of Education, Docket No. 25-86-368-3; Yoho v. Marshall County Board of Education, Docket No. 25-86-129-2.

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

#### FINDINGS OF FACT

1. Both grievants, Linda Rasnake and Sarah Roberts, are multi-classified bus operators/custodians and full time employees of the respondent, the Wyoming County Board of Education.
2. The grievants bid for the multi-classified jobs of bus operators/custodians and were hired for the 1983-84 school year. Their same contracts have been renewed for each year including the 1986-87 school year.
3. The regular work day of Wyoming County Board of Education employees is seven and one-half (7½) hours long.
4. Neither of the grievants work more than seven and one-half (7½) hours per day.
5. Each of the grievants receive a salary of \$1,141.00 per month which includes a \$50.00 per month supplement.
6. Prior to entering into their respective contracts, each of the grievants knew they would be expected to carry out duties in each of their classifications, namely, bus operator and custodian.

7. Each of the grievants knowingly and voluntarily entered into their respective contracts.

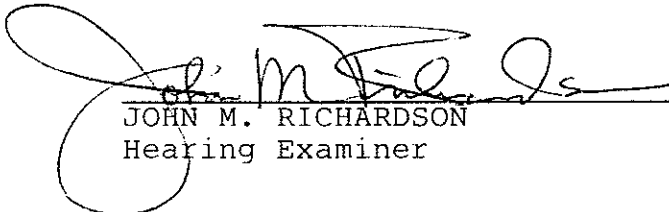
#### CONCLUSIONS OF LAW

1. The grievants in this grievance failed to prove by a preponderance of the evidence that they were entitled to any relief based upon the facts and law presented.

2. Multi-classification of job titles and duties has been long recognized by the State Department of Education, is necessary for the efficient operation of schools and is not prohibited by even a strict construction of the relevant law (WV Code §18A-4-8). Marling v. Marshall County Board of Education, Docket No. 25-86-368-3; Yoho v. Marshall County Board of Education, Docket No. 25-86-129-2.

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: April 3, 1987