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**WEST VIRGINIA EDUCATION  
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ANITA SIZEMORE  
and  
BARBARA MULLINS

v.

DOCKET NO. 55-86-310-4

WYOMING COUNTY BOARD OF EDUCATION

DECISION

This grievance comes before the West Virginia Education Employees Grievance Board following 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, Anita Sizemore and Barbara Mullins, 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 homes) 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 for one half time custodial wages for the period they have been employed as bus operators/custodians.<sup>1</sup>

The respondent contends that no violation of law has occurred and that multi-classification is consistent with WV Code §18A-4-8 and State Board of Education Policy.

Juanita Fox, Sharon Christian, Shelia Kennedy, Ronald C. Gray and Donald Ragan signed the level one grievance form but did not participate in the grievance at level four and counsel for the grievants was not aware of their status.

The testimony of the grievants revealed that they both bid for the multi-classified positions of bus operator/custodian. Each of them works two hours each day performing their custodial duties in addition to driving their morning and afternoon bus runs. Neither of the grievants works in excess of seven and one half (7½) hours per day during their normal five day work week.

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<sup>1</sup>Most of the pertinent facts and relief requested are similar to those contained in the grievance styled Roberts And Rasnake v. Wyoming County Board of Education, Docket No. 55-86-322-4.

While the grievants contend that the respondent is violating minimum wage requirements, they both testified that they received a salary which exceeds the minimum provided in WV Code §18A-4-8a.<sup>2</sup>

The argument presented by the grievants that they work enough hours (over three and one half (3½)) as a bus operator to be paid full time and that \$50.00 per month they are paid for forty (40) hours per month custodial work is unfair, is not valid argument according to the facts and law presented.

The grievants entered into a contract knowingly and agreed to perform bus operator and custodial duties. None of the contractual arrangements including their hours and wages were shown to be prohibited by law or other regulation.

With regard to the legality of multi-classification of job titles and duties this board has held that this practice 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; Roberts and Rasnake v. Wyoming County Board of Education, Docket No. 55-86-322-4; 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.

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<sup>2</sup>In addition to the state minimum salary, the grievants receive a general supplement provided by the respondent to all service personnel and a special supplement of \$50.00 per month paid to bus drivers/custodians.

### FINDINGS OF FACT

1. Both grievants, Anita Sizemore and Barbara Mullins, are employed as bus operators/custodians and are full time employees of the respondent, the Wyoming County Board of Education.
2. The grievants bid for and were hired as bus operators/custodians which were posted as multi-classified positions.
3. The regular work day of the Wyoming County Board of Education is seven and one half (7½) hours long.
4. Neither of the grievants works more than seven and one half (7½) hours per day.
5. Each of the grievants is paid in excess of the state minimum salary scale and each receives an additional \$50.00 per month bus operator/custodian 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 job classifications, namely, bus operator and custodians.
7. Each of the grievants knowingly and voluntarily entered into their respective contracts of employment.

### CONCLUSIONS OF LAW

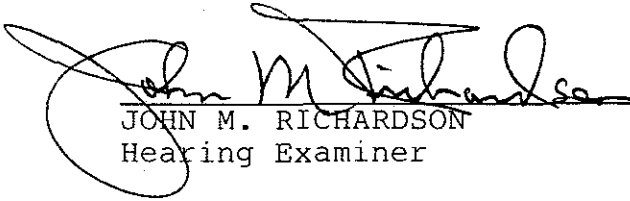
1. In most grievances, the burden is upon the grievant(s) to prove by a preponderance of the evidence the material elements of the grievance. Miller, et al v. Mason County Board of Education, Docket No. 26-86-183-1; Stanton v. Jefferson County Board of Education, Docket No. 19-86-071; Roberts and Rasnake v. Wyoming County Board of Education, Docket No. 55-86-322-4.

2. 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.

3. 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; Roberts and Rasnake v. Wyoming County Board of Education, Docket No. 55-86-322-4.

For all 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 inform 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 20, 1987