



**Members**  
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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

CHARLES STREISEL

v.

Docket No. 14-86-228-2

HAMPSHIRE COUNTY BOARD OF EDUCATION

DECISION

Grievant, Charles Streisel, is employed by the Hampshire County Board of Education as a secondary science teacher and is presently assigned to Romney Junior High School. Prior to the 1986-1987 school term the grievant had been assigned to Capon Bridge Junior High School for approximately eleven years.

By letter dated April 11, 1986, Superintendent Grey Cassell notified Mr. Streisel that he would be recommended for transfer effective the 1986-87 school term. Superintendent Cassell stated that his reasons for the recommendation were that parents had made complaints regarding Mr. Streisel's treatment of their children and that both he and another teacher at Romney Junior High School would benefit from the transfer as it would reduce their driving distance to work.

Following a hearing held during the April 30, 1986 board of education meeting, Superintendent Cassell's recommendation was approved by the board. Mr. Streisel's reassignment to Romney Junior High School was approved by the board on June

4, 1986. Mr. Streisel alleges this action to be in violation of State Board of Education Policy 5300 in that he was not made aware of any deficiencies through evaluation or given an improvement period prior to being transferred. The board of education argues that while the grievant did not receive an evaluation which reflected any deficiencies relating to teacher-student relationships until the day of his transfer hearing, he had been verbally warned by his principal not to downgrade or belittle students on several occasions.

State Board of Education Policy 5300 (6) (a) grants every employee an entitlement to open and honest evaluation of his performance on a regular basis. Any decision concerning a transfer of an employee is to be based on such evaluation and not upon factors extraneous thereto. Policy 5300 further grants every employee an opportunity to improve his job performance prior to a transfer. Trimboli v. Board of Education of County of Wayne, 254, S.E. 2d 561 ( W. Va. 1979). While a transfer may be disciplinary in nature it may not be effectuated prior to evaluation and an improvement period thereby providing job protection to employees who are performing competently. Trimboli, supra; Wilt v. Flanigan, 294 S.E. 2d 189 (W. Va. 1982) and Lipan v. Board of Education, County of Hancock, 295 S.E. 2d 44 (W. Va. 1982).

Mr. Bernard Hott, Principal of Capon Bridge Junior High School, testified that he had spoken to the grievant concerning teacher-student relationships, specifically comments made by

Mr. Streisel to the students. However, Mr. Hott did not provide his exact statements to the grievant making it impossible to determine the nature of the conversations. (T. pp. 13-26). There is no indication that any other supervisor or administrator discussed teacher-student relationships with the grievant prior to his transfer, no written reprimands or other notices were issued to him and/or placed in his personnel file and his principal did not recommend that he be transferred.

In addition to the foregoing it is appropriate to make the following findings of fact and conclusions of law.

#### Findings of Fact

1. Charles Streisel is employed by the Hampshire County Board of Education and is presently assigned as a science teacher at Romney Junior High School.

2. Prior to the 1986-1987 school term Mr. Streisel was assigned to Capon Bridge Junior High School.

3. By letter dated April 11, 1986, Superintendent Grey Cassell advised Mr. Streisel that he would recommend to the board of education that Mr. Streisel be transferred, effective the 1986-1987 school term.

4. The reasons given by the Superintendent for his recommendation were that parents had filed complaints regarding the grievant's teacher-student relationships and that both the grievant and another teacher would benefit from the transfer

as both would drive fewer miles to work.

5. On April 29, 1986, the Hampshire County Board of Education held a hearing for Mr. Streisel regarding the recommended transfer. Subsequent to this hearing the board approved Superintendent Cassell's recommendation that Mr. Streisel's name be placed on the transfer list.

6. On June 4, 1986, the board of education approved the Superintendent's recommendation that Mr. Streisel be assigned to Romney Junior High School.

7. The grievant and his principal had discussed the grievant's teacher-student relationships prior to April, 1986, however the grievant was not made aware of a deficiency through any type of formal evaluation until the day before his transfer was recommended to the board of education.

8. The grievant was given no opportunity to improve his performance prior to being transferred.

#### Conclusions of Law

1. Decisions concerning the transfer of an employee are to be based on evaluations of his performance and not upon factors extraneous thereto. Further, every employee is entitled to the opportunity to improve his job performance prior to the transfer of his services. W. Va. State Board of Education Policy 5300; Trimboli v. Board of Education of the County of Wayne, 254 S.E. 2d 561. (W. Va. 1979).

2. Transfers may be disciplinary in nature; however, they may not be effectuated prior to evaluation and an improvement period. Trimboli v. Board of Education of the County of Wayne, 254 S.E. 2d 561 (W.Va. 1979); Wilt v. Flanigan, 294 S.E. 2d 189 W. Va. 1982) and Lipan v. Board of Education of the County of Hancock, 295 S.E. 2d 44 (W. Va. 1982).

3. The grievant has been transferred in violation of W. Va. State Board of Education Policy 5300 as a matter of law.

Accordingly, the transfer is void and the grievance is GRANTED.

Either party may appeal this decision to the Circuit Court of Kanawha County or to the Circuit Court of Hampshire County and such appeal must be filed within thirty (30) 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.

DATED: January 26, 1987

Sue Keller

SUE KELLER

Hearing Examiner