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LOWELL THOMAS

v.

Docket No. 26-87-157-3

Docket No. 26-87-212-3

MASON COUNTY BOARD OF EDUCATION

DECISION

Grievant, Lowell Thomas, is employed by the Mason County Board of Education and until the 1987-88 school year, was assigned to Point Pleasant Junior High School as a full-time business teacher. In June 1987 he filed a level four appeal alleging that the board did not provide him with proper equipment to teach his typing classes. Subsequently, in July 1987 he filed another appeal alleging his principal eliminated his elective typing program and improperly transferred him to teach social studies classes. The parties stipulated that the issues could be considered together upon the existing record and supplementary briefs.¹

¹A level two hearing was conducted April 22 and 27, 1987. Although grievant entered the proceedings protesting one matter, a second issue developed giving rise to another later grievance; the level two hearing on the second grievance was conducted July 6, 1987. Reference to the former hearing shall be (T-1.____) and to the latter, (T-2.____).

The original dispute involved grievant's displeasure over the board's refusal to replace fourteen-year-old outdated, mechanical typewriters used in his elective typing classes. He alleged violation of W.Va. Code, 18-29-2 in that the board's action constituted a substantial detriment to effective classroom instruction and job performance. Grievant stated that although overall student enrollment had dropped and the number of electives increased, interest in his typing classes remained adequate and that he should have updated equipment.

Grievant's second dispute arose when his principal testified on the second day of the level two hearing that typing would not be offered in the 1987-88 school year. Grievant initiated and has taught the elective typing classes for the past fourteen years. He contends that the elimination of his position and subsequent transfer to a social studies position was violative of the notice and hearing requirements of W.Va. Code, 18A-2-7. He requests that he be reinstated to his former typing position and that avenues of funding be pursued to enable some systematic replacement of the outdated typewriters he had used since the typing program began.

At this point it becomes hard to separate the two grievances. The principal did not refute grievant's allegation that student interest remained for typing at the junior high, rather he countered that "the high school can service those children with updated modern machines" (T-1.53). The principal did not deny that students enrolled in the computer orientation/literacy classes offered at the school would benefit from knowledge of typewriter keyboarding (T-1.59). It was acknowledged that students completing grievant's ninth grade typing classes would gain credit for high school graduation. Grievant's principal also did not deny that on prior occasions he had told grievant money was probably available to replace the outdated typewriters and he had defended the notion that student demand in his school should dictate course offerings (T-1.61).

The board's position on the first grievance is that it experienced a significant revenue shortfall which precluded the purchase of needed equipment county-wide and grievant's typing classes were not part of a vocational education program, thus, there was no funding from that sector.² Grievant's typewriters,

²Testimony from a vocational administrator established that vocational funding can be funneled into the junior high school ninth grade level, and possibly include typing, but the matter had never been pursued with respect to updating the equipment for typing classes at grievant's school (T-1.61, 81-86).

FINDINGS OF FACT

1. For nearly fourteen years including the 1986-87 school term, grievant taught elective typing or keyboarding to eighth and ninth grade students at Point Pleasant Junior High School (PPJHS). The completion of a typing course by grievant's ninth grade students provided them credit toward high school graduation requirements.

2. Knowledge of typewriting or typewriter keyboarding are invaluable skills to transfer to computer oriented classes, required courses at the junior high school level, and both computer programming and technical math are computer oriented classes taught to PPJHS ninth graders.

3. Overall student enrollment has dropped and elective class offerings have increased, however, the students at PPJHS have indicated a strong preference for elective typing classes and their principal has stated that his students' choices of elective classes is of paramount importance to him (T-1.62).

4. Grievant requested from his principal a replacement program for his fourteen-year-old typewriters; grievant relied on his principal's assurances that money was probably available and he (the principal) would pursue the matter accordingly (T-1.61). Grievant filed a grievance after later verbal indications from his principal that his typewriters would not be replaced and he would not be teaching typing in 1987-88.

it contends, were outdated but still in fair condition and serviceable, as he himself admitted. This grievance was denied at level two on the basis of the principal's decision that the typing program at Point Pleasant Junior High School would be eliminated.

The grievant argues that his assignment to teach social studies in 1987-88 following fourteen continuous years teaching typing involved a substantial change in duties and responsibilities and was violative of guidelines established by West Virginia Education Employees Grievance Board decisions. The board argues that a principal is authorized to reschedule its teachers pursuant to W.Va. Code, 18A-2-9 and interpretations thereof by the State Superintendent of Schools. W.Va. Code, 18A-2-9 states in part:

Under the supervision of the superintendent and in accordance with the rules and regulations of the county board of education, the principal shall assume administrative and instructional supervisory responsibility for the planning, management, operation and evaluation of the total educational program of the school or schools to which he is assigned.

The principal may submit recommendations to the superintendent regarding the appointment, assignment, promotion, transfer and dismissal of all personnel assigned to the school or schools under said principal's control. Such recommendation shall be submitted in writing as prescribed by the superintendent.

In addition to the foregoing narration, the following findings of facts and conclusions of law are appropriate.

5. Grievant's principal did not seek assistance from those administrators who had knowledge of vocational funding but instead eliminated the elective typing program at PPJHS because the county did not have its own funding for typewriter replacement and, according to him, students could receive typing classes in tenth grade at the high school on modern equipment.

6. The vocational director testified that vocational funding was possible for "feeder" courses/programs (T-1.74) offering typing classes but grievant's school was not in the vocational plan (T-1.78) nor had the possibility been investigated or pursued. The administrator admitted, however, that funded pre-vocational programs are available for ninth grade, for example, home economics and electronics at PPJHS (T-1.80) and typing in ninth grade at several high schools, and could include even eighth grade courses.

7. On the basis of the principal's decision that typing would not be taught at PPJHS in 1987-88, grievant's grievance in regard to his request for updated equipment was denied (T-2.10).

8. Grievant filed another grievance after his first formal, written notification that his typing program would be dropped, i.e., the level two decision. Grievant's principal did not follow statutory guidelines prior to his decision to eliminate grievant's long held position of typing teacher.

9. Typing is an elective course which by State Policy must be offered once in grades nine through twelve (T-1.7). The respondents herein have overlooked an obvious outcome that students who leave PPJHS without a typing class and who are in pursuit of an academic rather than vocational high school curriculum may thereby be denied an opportunity to ever take a typing course.

10. The elimination of a fourteen-year-old program from the junior high school curriculum appears to be a matter to be properly considered by the board of education especially when the programmatic change would entail the transfer of a teacher, who had continuously taught the courses, from one teaching discipline to a vastly different one. Grievant herein was denied an opportunity to protest his principal's decision to eliminate his typing teacher's position or to present his rationale to the board regarding the merits of the typing program.

CONCLUSIONS OF LAW

1. While W.Va. Code, 18A-2-9 provides that a principal is authorized to plan and manage the operation of his or her school, a schedule adjustment outside of a teacher's presently utilized discipline of many years standing is a change of assignment amounting to a transfer as contemplated by the statute and the principal must make such recommendations to the school superintendent. Schafstall v. Brooke County Board of Education, Docket No. 05-86-347-3.

2. Social studies and typing are vastly different disciplines and require materially different lesson plans, assignments, and teaching presentations and performance; the reassignment of grievant from a fourteen year typing teacher's position to that of a social studies teacher imposed substantial changes in his duties, responsibilities and subject matter.

3. An assignment/transfer of a teacher to an area outside of his or her presently assigned area of certification, discipline, or department involving a substantial change in duties, responsibilities and subject matter requires compliance with W.Va. Code, 18A-2-7. Bumgardner v. Ritchie County Board of Education, Docket No. 43-87-219-3; Pansmith, et al. v. Taylor County Board of Education, Docket No. 46-86-057; Burge and Worrell v. Mercer County Board of Education, Docket No. 05-86-347-3; Lavender et al. v. McDowell County Board of Education, 327 S.E.2d 691 (W.Va. 1984).

4. Grievant's principal failed to recommend to the superintendent that he be transferred from typing teacher to social studies teacher as required by W.Va. Code, 18A-2-9 and otherwise failed to comply with the statutory guidelines for transfer.

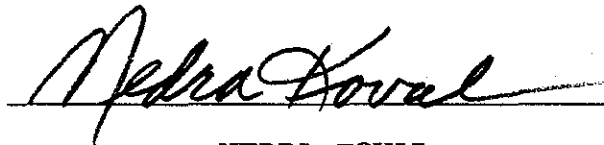
5. Grievant has shown that his typing classes were viable and had educative value, therefore, school officials' lack of prudence and failure to investigate and pursue means to provide outside funding for the replacement of grievant's antiquated classroom equipment was not in the best interests of the school system and could be construed as detrimental to grievant's effective classroom instruction and job performance as contemplated by W.Va. Code, 18-29-2.

Accordingly, this grievance is **GRANTED** as to grievant's improper transfer and the board is directed to reinstate grievant to his typing position at Point Pleasant Junior High School beginning the second semester, 1987-88 and **GRANTED** as to his concerns about his typewriters to the extent that all possible avenues and sources of outside funding and other means be pursued to provide grievant with updated equipment for the class.

Either party may appeal this decision to the Circuit Court of Kanawha County or to the Circuit Court of Mason 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:

December 29, 1987

A handwritten signature in cursive script, reading "Nedra Koval", written over a horizontal line.

NEDRA KOVAL
Hearing Examiner