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**D. JEAN GRANT**

**v.**

**DOCKET NO. 17-88-058**

**HARRISON COUNTY BOARD OF EDUCATION**

**DECISION**

Grievant, D. Jean Grant, is employed by the Harrison County Board of Education as a teacher assigned to the sixth grade at North View Elementary School. Ms. Grant filed a level four grievance appeal on April 12, 1988 in which she alleged that "...[p]arental complaints were improperly processed, resulting in unnecessary surveillance by Central Office Staff." The matter was submitted for decision based upon the level two record supplemented by an affidavit for Frank S. Perri, member of the board of education, received on July 12 and proposed findings of fact and conclusions of law submitted by September 13.

On or about February 13 board of education member Frank Perri received a phone call from a parent who expressed her concern that kindergarten students at North View Elementary School

were arriving at their classroom before the teacher. The parent was apprehensive that a lack of supervision might affect the safety of the students. Mr. Perri reported the call to the central office administration.

On February 15 at 8:30 a.m. Principal Dennis Zahradnic called a teachers' meeting at which time he advised the staff of the parent's report. (T.6) The grievant expressed her concern that teachers were not required to supervise students prior to 8:05 a.m. and using the threat of a grievance a letter was sent to parents reminding them of the time their children were to arrive at school. (T.10) John Babyak, Administrative Assistant for Elementary Education, observed the staff at North View during the week of February 22 to confirm that the teachers were at their assigned stations at the correct time. Mr. Babyak stated that he walked through the hallway and engaged in personal conversation with some members of the staff but did not discuss the reason for his presence. (T. 55)

The grievant argues that the board of education failed to enforce its own policies which require members of the public to first file written, signed complaints directly with the employee in question and that Mr. Babyak's observation was unnecessary,

unprofessional surveillance causing her irritation and annoyance which constitutes harassment as defined by W.Va. Code, 18-29-2(n). She requests written assurance that in the future the board of education will follow its own procedures.

The board of education asserts that the welfare and safety of the students is its primary concern and that alleged incidents relating to the students must be investigated whether or not the information was properly filed. It asserts that Mr. Babyak was fulfilling his responsibilities as an administrator and that the casual observation was not harassment of the grievant.

While it is commendable that the Harrison County Board of Education has established a procedure whereby parents and/or citizens may file complaints regarding its employees, from a practical viewpoint it is impossible to enforce. Neither a written policy nor verbal instructions will stop individuals from calling board members and administrators with their complaints. In some instances the situation may be of such importance that it requires the immediate attention of an individual with the authority to correct it. Certainly board members and administrators would be derelict in their duty if they ignored a legitimate complaint simply because it had not previously been submitted to the employee in writing.

The observation of the staff by an administrator acting within his area of responsibility and who in the execution of that activity does not detain, interrupt or reproach an employee does not constitute harassment as defined by W.Va. Code, 18-29-1(n).

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

#### Findings of Fact

1. The grievant is employed by the Harrison County Board of Education as a teacher assigned to the sixth grade at North View Elementary School.

2. On or about February 13, 1988 a parent called board of education member Frank Perri and expressed her concern that kindergarten children were left unsupervised for a period of time prior to the beginning of class. Mr. Perri passed the concern on to administrators.

3. Principal Dennis Zaradnik called a teachers meeting at 8:30 a.m. on February 15 to advise the staff of the call.

4. At the insistance of the grievant a note was sent home to parents reviewing the school's time schedules and procedures.

5. During the week of February 22 John Babyak, Administrative Assistant for Elementary Education, observed the staff at North View to determine whether any students were left unsupervised.

#### Conclusions of Law

1. The Harrison County Board of Education policy requiring all parental complaints be made in writing and presented first to the employee in question is unenforceable as individuals cannot be stopped from calling school officials and is inapplicable in situations requiring the immediate attention of a supervisor.

2. The casual observation of a faculty by an administrator does not constitute harassment as defined by W.Va. Code, 18-29-2(n).

Accordingly, the grievance is **DENIED**.

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

September 29, 1988

Sue Keller

SUE KELLER