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**WEST VIRGINIA EDUCATION AND  
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**SALLIE ANN HELTON**

**v.**

**Docket No. 20-87-028-1**

**KANAWHA COUNTY BOARD OF EDUCATION**

**D E C I S I O N**

Grievant, Sallie Ann Helton, is employed by the Kanawha County Board of Education as a Cooperative Education Coordinator assigned to Charleston High School. She filed a grievance on October 23, 1986 alleging that the position of Director of the Cooperative Education/Work Experience Program had not been filled on the basis of qualifications in violation of W.Va. Code, 18A-4-8b(a). A Level II hearing was convened December 11, 1986 but the hearing evaluator at that level ruled the issue of qualifications had not been properly raised at Level I and demanded an amended grievance. By letter dated January 27, 1987 grievant attempted to appeal the evaluator's decision to the Kanawha County Board of Education, but the Board voted on January 30, 1987

to reject the appeal on the grounds it had not been timely filed. The amendment to the grievance was made on February 5, 1987 and an appeal to Level IV was made on February 9, 1987. A March 6, 1987 hearing was continued for cause and on July 7, 1987 the Board made a motion to dismiss on the grounds of timeliness and, after a hearing on the motion on July 22, 1987, the motion was denied and the case was remanded to Level II for an evidentiary hearing. Hearings were held at that level on October 27, 1987 and November 16, 1987. A subsequent decision was adverse to the grievant and the Board, at Level III, reviewed the record and upheld that decision. Appeal was again made to Level IV on February 24, 1988. Level IV hearings were scheduled for May 12, 1988 and July 13, 1988 but were continued for cause. On June 17, 1988 the parties agreed to submit the case for decision on the record developed at Level II and supplemental briefs. The Level II transcript (T.\_\_) was received August 15, 1988.

On July 22, 1986 the position in question was posted and the minimum requirements listed were a Master's Degree in Vocational Education, eligibility for State Certification as a Vocational Administrator, a minimum of three years of education experience, evidence of experience in program administration and some experience in the world of work. According to the attached job description, the position would entail the coordination and planning of a wide range of activities in the county's cooperative/work

experience program (Employer's Exhibit No. 4). Seven persons including the grievant submitted resumes and applications for the position. An interview committee consisting of Mr. Dennis Davis, Assistant Superintendent of Vocational and Community Education, Mr. John Cooke, Bureau Chief in the State Department of Education, Department of Vocational, Technical and Adult Education, Mr. Harold Walker, Principal of Garnet Career Center and Ms. Mildred Holt, Personnel Director, conducted interviews of all seven applicants. Each candidate was asked the same ten (10) open-ended questions and members of the committee gave the candidates a numeral score of 0, 1 or 2 on each question depending on the sufficiency of their answers. The committee also reviewed resumes and applicant profile sheets compiled by the Board's personnel office. The latter contained the applicants' respective areas of certification/endorsement, date of hire and positions previously held. Upon completion of the interviews, the scores for each applicant were totalled and placed on a matrix sheet which also noted a numerical ranking in the areas of oral communication skills, initiative and personality. The sheet also contained scores on the applicants' most recent evaluations, total years of experience and indications as to whether or not they held an Administrator's Certificate. With the exception of oral communication skills, Ms. Norma Miller was given the highest scores in all categories and Mr. Davis subsequently made

a recommendation to Mr. David Acord, Deputy Superintendent of Schools, that she be awarded the position. Dr. Richard Trumble, Superintendent of Schools, made this recommendation to the Board and it was accepted.

Grievant contends the selection process was manipulated and favoritism was shown Ms. Miller in violation of W.Va. Code, 18-29-2(o). She further maintains that she was the more qualified candidate and the decision to hire Ms. Miller was therefore a violation of W.Va. Code, 18A-4-8b(a). The extensive record developed at the Level II hearing, however, does not support either of these assertions.

Mr. Davis' testimony generally revealed the selection process was designed to insure an impartial review of the relevant qualifications of each applicant. His account of the committee's actions and considerations contained nothing which could be considered an impropriety. The grievant similarly did not provide any testimony or documentary evidence in support of this part of her grievance. The charges of manipulation and favoritism are merely bald assertions as the record is simply devoid of any information relevant to those charges.

A comparison of the relevant credentials of the grievant with those of the successful applicant also indicates grievant's second argument has little merit. Ms. Miller holds the requisite Vocational Administrator's Certificate and Master's Degree in

Vocational Education. She was employed from 1978 to 1980 in the position of Job Development Coordinator, a job entailing the instruction of students and assistance in their placement with employers. From 1980 to the time she was awarded the position in question, Ms. Miller was the Coordinator of Services to Business and Industry, an administrative position involving the coordination of nearly all facets of a large portion of the county's cooperative work program. (T.85,86,87) Prior to accepting her first position with the Board, she had also attained extensive experience in the operation and management of a family owned grocery business. (T.81,82,83) Ms. Miller achieved an overall score on the interview questions which was nearly twenty (20) points higher than that of the grievant, and as previously noted, she was given the highest numerical ranking in all matrix sheet categories except one. The grievant holds a Master's Degree in Vocational Technical Education Administration and the requisite Administrator's Certificate. She has been employed as a Cooperation Education Coordinator by the Board since 1976 and is presently assigned to Charleston High School. Grievant has no administrative experience other than the coordination of her own instructional program on the high school level.

The job description for the contested position clearly indicates it is an administrative one requiring knowledge of and experience in the operation of a major cooperative education program in the county and while the grievant has more teaching

experience in the field, Ms. Miller has far more experience in administration. The committee's decision to select her as the most qualified applicant for the position was therefore quite logical and was not an arbitrary or capricious action.

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

#### FINDINGS OF FACT

1. Grievant, Sallie Ann Helton, is employed by the Kanawha County Board of Education as a Cooperative Education Coordinator assigned to Charleston High School.

2. On July 22, 1986 the position of Director of Cooperative Education/Work Experience Program was posted and seven persons, including the grievant, submitted applications and resumes.

3. An interview committee consisting of Mr. Dennis Davis, Assistant Superintendent of Vocational and Community Education, and three other persons reviewed the applicants' resumes, conducted interviews and gave each numerical rankings in five major categories including personality, oral communications skills, interview scores, evaluations and initiative.

4. Upon review of the committee's findings, Mr. Davis recommended that Ms. Norma Miller be awarded the position and the

Board ultimately accepted that recommendation.

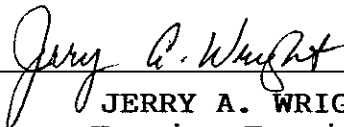
CONCLUSIONS OF LAW

1. A grievant who makes allegations that a county board of education has failed to fill a position in accordance with the provisions of W.Va. Code, 18A-4-8b(a) must prove those allegations by a preponderance of the evidence. Johnson v. Cabell County Board of Education, Docket No. 06-87-248-1; Randolph v. Harrison County Board of Education, Docket No. 40-87-330-1; Black v. Cabell County Board of Education, Docket No. 06-88-020-4.

2. The grievant, Sallie Ann Helton, has failed to prove by a preponderance of the evidence that she was more qualified for the position of Director of Cooperative Education/Work Experience Program than the successful applicant or that the Kanawha County Board of Education otherwise acted arbitrarily or capriciously in the filling of said position.

Accordingly, the grievance is **DENIED**.

Either party may appeal this decision to the Circuit Court of Kanawha County and such appeal must be filed within thirty (30) days of receipt of said decision. (W.Va. 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.

  
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JERRY A. WRIGHT  
Hearing Examiner

Dated: October 26, 1988