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**WEST VIRGINIA EDUCATION AND
STATE EMPLOYEES GRIEVANCE BOARD**

ARCH A. MOORE, JR.
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Suite 508
Charleston, WV 25301
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DAVID McDONALD, et al.

v.

Docket No. 15-88-055-3

HANCOCK COUNTY BOARD OF EDUCATION

D E C I S I O N

Grievants are David McDonald, Lawrence Fernandez, Charlene Hanna, Barbara Logue and Virginia Piccirillo and are all employed by the Hancock County Board of Education as teachers of physical education, health, art or music at Weir Junior High School (WJHS). On November 20, 1987 grievants filed a level one grievance alleging violation of W.Va. Code, 18-29-2(a) when they were forced to adhere to an administrative policy that they grade their seventh and eighth grade students with Pass/Fail (P/F) instead of letter grades A through F. Grievants did not prevail at levels one and two and the record does not reveal board of education action on the grievance at level three. The grievance was filed at level four in April 1988. A level four hearing was conducted August 10, 1988 to supplement the record developed at level two. Grievant's representative filed proposals September 14, 1988 and the board stood on its level two decision and findings.

According to standards promulgated by the State Department of Education several years ago, art, music, physical education and health are all required subjects to be taught in the elementary and (junior) middle school grade levels (1-8). In order to meet the requirements, school administrators in the county determined that each subject area for seventh and eighth grade students at WJHS would have to be scheduled in rotating nine-week blocks. The administrators believed that nine weeks was not a sufficient period in which to evaluate student work for a letter grade. Since P/F evaluations for the subjects in question was the method utilized in the elementary grades, 1-6, administrators considered and decided that the P/F system should continue into the seventh and eighth grade levels.

Grievants objected to the new grading policy from its inception and continued to give their students letter grades on report cards. Eventually, a computerized county grading system required strict adherence to the P/F method. Grievants object to the P/F evaluations for a variety of reasons and basically believe and contend that P/F grades lower standards, motivation and morale of students and teachers alike. The grievants also object to formulation and implementation of the P/F grade policy without their input on the issue.

Grievants feel the implementation of the P/F grade system to which they protest constitutes a grievous matter and cite

the provisions of W.Va. Code, 18-29-2(a) in their proposed conclusions of law thusly:

Pursuant to W.Va. Code, 18-29-2(a) "Grievance" "any specifically identified incident of harassment or favoritism; or any action, policy or practice constituting a substantial detriment to or interference with effective classroom instruction, job performance or the health and safety of students or employees." (Emphasis as noted in submitted material).

The board contends that meetings were conducted with school principals to devise a system to schedule and grade the required courses. School officials admitted, though, that efforts to secure input from the affected teachers may not have been pursued effectively. The curriculum administrator primarily responsible for the decision to implement the P/F grade policy said she had researched the matter somewhat and felt the P/F system was the best method to evaluate students under the circumstances. In addition, the board maintains that the quality of classroom instruction has remained high among the affected teachers (grievants) and argue that grievants have not proved their case or provided a legal basis for the relief they request, i.e., that the P/F system be abolished in favor of letter grades.

While grievants are philosophically opposed to the P/F grade system for their courses, their disagreement with the policy does not constitute a grievous matter as they did not produce adequate evidence of an adverse impact of the policy upon themselves and their students within the scope and meaning of W.Va. Code, 18-29-2(a).

5. Grievants believe that the P/F grade policy was not scrutinized properly before implementation and they are desirous of participating in further formal study and discussion with school officials about the matter.

6. Notwithstanding their professional and personal feelings in regard to the opposed policy, grievants did not produce evidence of an adverse impact of the policy upon themselves or their students.

CONCLUSIONS OF LAW

1. Discretionary administrative policy not per se violative of school law or policy is not a proper subject for adjudication by the West Virginia Education and State Employees Grievance Board even though the class of teachers affected by the policy objects to its use. See, Vandevander/Pugh v. Hancock County Board of Education, Docket No. 15-88-002-3.

2. Grievants herein have failed to establish a legal basis for which to grant the relief they request.

Accordingly, this grievance is DENIED.

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

FINDINGS OF FACT

1. Grievants teach at Weir Junior High School and are assigned to teach the subject areas of art, music and physical education/health.

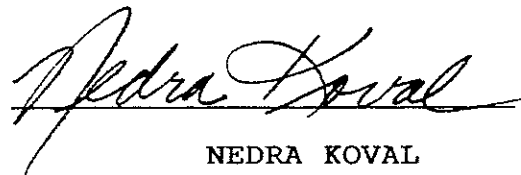
2. Due to State requirements that the designated subject areas be taught at the seventh and eighth grade levels, grievants' classes are scheduled in rotating nine week modules so each student will receive the mandated instruction.

3. As art, music, physical education/health are graded Pass/Fail (P/F) in the elementary levels, administrators required that the grievants utilize the P/F system to grade their seventh and eighth grade students in the designated nine-week courses. The curriculum director also felt the P/F system was appropriate because the courses are of such a brief duration and letter grading A-F is reflective of an entire semester's work in one subject.

4. Grievants object to the P/F grading system and feel it is counterproductive for teachers and students alike.

Either party may appeal this decision to the Circuit Court of Kanawha County or to the Circuit Court of Hancock 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 30, 1988

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

NEDRA KOVAL
Hearing Examiner