



REPLY TO:
101 Harper Park Drive
Suite D
Beckley, WV 25801
Telephone: 255-6155

Members
James Paul Geary
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

ROBERT WRAY, JR.

v.

DOCKET NO. 27-87-285-4

MERCER COUNTY BOARD OF EDUCATION

D E C I S I O N

The grievant, Robert Wray, Jr., has been employed by the Mercer County Board of Education for the past fourteen (14) years and has been assigned to Bramwell High School as a teacher and head basketball coach. He is also presently the cross country coach at the same school. In September Mr. Wray filed a grievance alleging football coaches were being paid more than basketball coaches and such salary discrepancies were in violation of W.Va. Code, 18A-4-5(a). A Level II hearing was held on October 6, 1987 and a Level III hearing was held on October 26, 1987 and decisions adverse to the grievant were rendered at both levels. A Level IV evidentiary hearing was held on December 14, 1987. The parties subsequently submitted proposed findings of fact and conclusions of law.

It is not disputed by either party that football coaches

and basketball coaches have differing sports seasons and football coaches are given greater compensation for their services. The West Virginia Secondary School Activities Commission determines these seasons and for the 1987-88 school term that Commission set the starting date for football season at August 3, 1987 and the ending date at November 7, 1987. Basketball season's starting date was set for November 16, 1987 and will continue until March 8, 1988. The parties also agree that according to a particular team's record and subsequent participation in playoff competition, each season may continue slightly beyond the ending dates for each sport. Football coaches, under a new Board policy, actually report for work the first week of August under their regular teaching contract and accordingly, are paid their regular salary for that month. Additionally, football coaches will receive One Thousand One Hundred (\$1,100.00) Dollars in supplemental pay for their season. Basketball coaches receive the same amount of supplemental pay but are only paid their regular teacher's salary for three (3) days when they are engaged in team practice or games during the Thanksgiving and Christmas breaks when school is not in session.¹

¹Grievant testified that he would actually work between eleven (11) and thirteen (13) days either for team practice or scheduled games during these breaks (T.____), but it was brought out during cross-examination and the direct testimony of Dr. Deborah Akers, Administrative Assistant, that grievant was only required to work from three (3) to five (5) days at these times
(footnote cont.)

It is the grievant's contention that the additional compensation paid the football coaches in the form of their extra month's regular teacher's salary is a clear violation of the provisions of W.Va. Code, 18A-4-5(a), which in part reads:

Counties may fix higher salaries for teachers placed in special instructional assignments, for those assigned to or employed for duties other than regular instructional duties and for teachers of one-teacher schools, and they may provide additional compensation for any teacher assigned duties in addition to his regular instructional duties wherein such noninstructional duties are not a part of the scheduled hours of the regular school day. Uniformity also shall apply to such additional salary increments or compensation for all persons performing like assignments and duties within the county....

The arguments of the grievant and the Board necessarily center on the nature of work of football and basketball coaches within the Mercer County School System. The parties offer opposing views as to whether or not those coaches are performing like assignments and duties and should be paid uniformly in accordance with the mandates of the West Virginia Code. The grievant's testimony and the testimony of Dr. Akers at the Level IV hearing revealed many of the duties and responsibilities of both coaches were the same or similar but a quantitative assessment of coaching duties

(footnote cont.)

depending upon the schedule of the games in a given season. It should be noted that grievant also testified that although there was no formal requirement to work the extra days, he felt the Board implicitly expected him to do what was necessary in the area of training for his basketball team.

for two different sports is not sufficient to prove they are like assignments as that term is used in W.Va. Code, 18A-4-5a when additional evidence indicates otherwise, namely, the nature of the sport. Markham, et al. v. Mason County Board of Education, Docket No. 26-87-101. The two sports are inherently different and to conclude the responsibilities of their coaches are like assignments and duties would be a disregard for a great many obvious variations in these two activities.

Grievant pointed out the Mercer County Board of Education had adopted a policy in 1985 concerning coaches' work load and a statement contained therein indicates:

Coaching shall be interpreted to mean instruction or direction of members of athletic teams, individually or as a group for purposes of developing ability or skill to perform in athletic contests. (Grievant's Exhibit No. 1)

All coaches presumably adhere to some common goals and practices established for all sport activities, Markham, et al. v. Mason County Board of Education, *supra*, and this statement merely confirms the fact that the Board takes that approach in its extracurricular activities. It is not a job description used for personnel purposes but only a definition used in a policy intended to emphasize coaches must carry the same regular teaching load as any other teacher in a particular school.²

²Grievant testified the extracurricular contracts
(footnote cont.)

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

FINDINGS OF FACT

1. The grievant is a teacher employed by the Mercer County Board of Education and assigned to Bramwell High School.

2. Grievant is also employed as head basketball coach and cross country coach at the same high school.

3. The Mercer County Board of Education enters into contracts with teachers who provide duties as football and basketball coaches.

4. Under the terms of such agreements, head basketball and football coaches are both paid \$1,100.00 for their services in a particular season.

5. In addition to this compensation, head football coaches begin working under their regular teaching contracts in early August at the beginning of the football season as established by the West

(footnote cont.)

signed by basketball and football coaches were identical except that the duties therein are outlined as "head boys football coach" and "head boys basketball coach." This testimony provides little if any support to grievant's arguments and no copies of contracts or job descriptions were offered as evidence by either party.

Virginia Secondary School Activities Commission and are paid according to the terms of their regular teaching contracts for the month of August.

6. For the 1986-87 school term said Commission established the football season as beginning on August 3, 1987 and ending on November 7, 1987 and established the basketball season as starting on November 16, 1987 and ending on March 8, 1988.

7. Head basketball coaches in the Mercer County School System are paid, in addition to their \$1,100.00 compensation under the coaching contracts, for three (3) days under the terms of their regular teaching contracts for time spent coaching during the Thanksgiving and Christmas holidays when school is not in session.

8. These methods used by the Mercer County Board of Education to pay coaches provides greater compensation for head football coaches than it does for head basketball coaches and the amount of extra compensation depends on the terms of the regular teaching contract of the head football coaches.

CONCLUSIONS OF LAW

1. W.Va. Code, 18A-4-5a allows county boards of education to provide additional compensation for teacher's assigned extracurricular duties and uniformity shall apply to such additional duties

for all persons performing like assignments and duties.

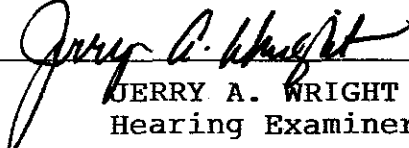
2. The nature of the sport of football is inherently and substantially different from that of basketball and while coaches of both sports adhere to some common goals and practices, the two do not perform like assignments and duties. Markham, et al. v. Mason County Board of Education, supra.

3. Boards of education may establish different methods of compensation for each group of coaches and such methods may include higher pay for a particular type of coach. See generally, Wright v. Putnam County Board of Education, Docket No. 40-86-328-1.

4. Grievant has failed to prove the Mercer County Board of Education has violated the uniformity pay provisions of W.Va. Code, 18A-4-5a in its practice of providing higher compensation for head football coaches than it does for head basketball coaches.

Accordingly, the grievance is DENIED.

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


JERRY A. WRIGHT
Hearing Examiner

DATED: January 15, 1988