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

**GASTON CAPERTON**  
Governor

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**LUCIAN ISAACS**

v.

Docket No. 89-22-497

**LINCOLN COUNTY  
BOARD OF EDUCATION**

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

Grievant Lucian Isaacs, presently a regular bus operator for Respondent Lincoln County Board of Education, alleges that Respondent violated W.Va. Code §18A-4-8b(b) in failing to grant him "seniority credit" for the 133 days he worked in 1984-1985 when a substitute bus operator. The Level I evaluator ruled he had no authority over the matter and the grievance was denied at Levels II and III. Grievant appealed to Level IV on August 24, 1989, requesting that the decision be based on the record compiled below. Grievant submitted proposed findings of fact and conclusions of law on September 29; Respondent waived its right to submit proposals.

The Level II evaluator made the following determinations:

**FINDINGS OF FACT**

1. Mr. Lucian Isaacs is employed by the Lincoln County Board of Education as a regular bus operator.

2. Mr. Isaacs has been employed as a "regular" driver since school year 1985-86.
3. From 1982-83 until 1984-85, Mr. Isaacs was a "substitute" driver for the Lincoln County School System.
4. Even though Mr. Isaacs worked more than 133 days in 1984-85, he received no credit for seniority because at that time he was under contract as a "substitute" bus operator. He did receive credit for experience pay purposes, but not seniority.

#### CONCLUSIONS OF LAW

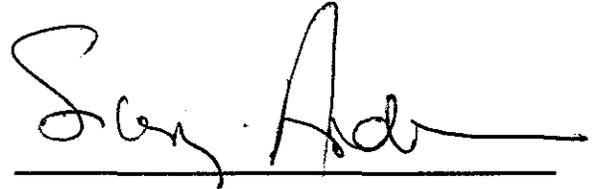
1. For purposes of determining seniority, a service employee (regular) begins on the date he or she enters into his or her assigned duties, West Virginia Code 18A-408b. . . .
2. Substitute personnel cannot accrue seniority for employment in a "regular" classification while working as a substitute. They can be given experience for pay purposes but not seniority.

The findings of fact of the Level II evaluator are hereby adopted. Moreover, the evaluator's decision is consistent with Abbott v. Boone Co. Bd. of Education, Docket No. 89-03-288 (Nov. 30, 1989), and cases cited, where it was held, "Under Code §18A-4-8b(b), substitute service staff members do not accrue regular-employment seniority in the same manner as permanently-hired service personnel do."

The grievance is therefore **DENIED**.

Either party may appeal this decision to the Circuit Court of Kanawha County or to the Circuit Court of Lincoln County and such appeal must be filed within thirty (30) days of receipt of this decision. W.Va. Code §18-29-7. Neither the West Virginia Education and State Employees Grievance

Board nor any of its Hearing Examiners is a party to such appeal, and should not be so named. Please advise this office of any intent to appeal so that the record can be prepared and transmitted to the appropriate court.

A handwritten signature in cursive script, appearing to read "Sunya Anderson", written over a horizontal line.

SUNYA ANDERSON  
HEARING EXAMINER

Dated: December 14, 1989