



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

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**SANDY JOHNSON, DENNA ADKINS and ANGELA PRITCHARD**

**v.**

**Docket No. 89-22-139**

**LINCOLN COUNTY BOARD OF EDUCATION**

**DECISION**

Grievants are half-time school secretaries employed by Respondent Lincoln County Board of Education. They claim,

Violation of. . . [W.Va. Code §]18A-4-8 in regard to the grievants being classified as Secretary II's and only employed for 3 hrs. and 25 minutes while "NEW" New Employment for Women federal program people are performing their job description responsibilities. Also question in regard to method of payment of salaries. Relief sought to work full time.<sup>1</sup>

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<sup>1</sup> At the Level IV hearing, it was clarified that N.E.W.  
(Footnote Continued)

After denials at Levels I,<sup>2</sup> II and III, Grievants filed their complaint at Level IV, where hearing was conducted May 1, 1989. At that hearing, Grievants stated that the total relief they seek is full-time Secretary II employment, despite the reference in their written statement of grievance to "question in regard to method of payment of salaries." The parties agreed to a responsive briefing schedule concluding June 12.<sup>3</sup>

The crux of Grievants' claim is that these federal program workers were or are inappropriately performing their duties. For example, one Grievant testified at Level IV that her office was completely rearranged by such a worker, with the principal's assent, to suit the worker. Another Grievant admitted, however, that there was no longer a N.E.W. person at her school. Grievants also presented

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(Footnote Continued)

personnel were assigned to schools served by Grievants Adkins and Pritchard and a woman was placed at Grievant Johnson's worksite under the auspices of another program identified by the initials "C.W.E.P." Respondent explained that "volunteers" from N.E.W., C.W.E.P. and the Southwestern Community Action Council are present in its schools throughout Lincoln County. Apparently, there is very little distinction, for purposes related to the instant case, between these programs or workers.

<sup>2</sup> The grievance form indicates Level I was waived. It is presumed that Grievants' immediate supervisors were without authority to offer them full-time employment and thus denied their request for relief on that basis.

<sup>3</sup> In their proposals as to law, Grievants cited as applicable W.Va. Code §18A-4-5b's requirements of uniformity in certain aspects of employment. The statute has little if any pertinence to this case since clearly the federal program workers were or are not "employed" by Respondent.

evidence of parents acting as school office volunteers although, generally speaking, there was no perceived problem with them or with certain other extra helpers.<sup>4</sup>

Grievants contend that, since Respondent employs full-time secretaries at six schools with smaller enrollments than the three institutions served by them, they should be hired full-time. They further argue that they are prevented from attaining full-time status, in part, because of the allegedly improper utilization of federal program participants. They also submitted information that some or all of their salary money is derived from federal funds for the school meal programs they coordinate as part of their duties.<sup>5</sup> Finally, they assert that "Grievants are unable to perform all of the Secretary II's job responsibilities as part-time employees." Gr. Proposed Findings of Fact 14.<sup>6</sup>

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<sup>4</sup> One Grievant did note mild disagreement with certain aspects of the parent volunteer program.

It was revealed at Level IV that personality differences with some of the federal program workers in part, precipitated this grievance.

<sup>5</sup> Grievants were formerly classified as Cafeteria Managers. As such, most or all of their actual job responsibilities apparently related to coordination of school breakfast and lunch programs, and this has continued after their title change to Secretary II's.

Apparently, Grievants' point regarding the source of their salaries was made in an attempt to counter Respondent's argument that it is without funds to hire them full-time. Unrefuted evidence from Respondent does indicate that it is already "over the State Aid formula for service personnel by 26.31 positions."

<sup>6</sup> "Secretary II's duties, as defined in. . .[W.Va.]  
(Footnote Continued)

While it appears that some management decisions on utilization of the extra workers may have been of questionable wisdom, Grievants have not established any basis for the relief they seek. At the conclusion of the Level IV hearing, the undersigned specifically requested Grievants to provide him with information suggesting authority in this Grievance Board to, in essence, order Respondent to create three additional half-time Secretary II positions. They have not done so, and the undersigned is unaware of any basis for such authority.

The remainder of this Decision will be presented as formal findings of fact and conclusions of law.

#### FINDINGS OF FACT

1. Grievants, half-time school secretaries for Respondent, are classed as Secretary II's. Participants in programs underwritten by government agencies are, or have been in the past, been assigned to each of Grievants' schools to assist in the office.

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(Footnote Continued)

Code] §18A-4-8, may include performing general tasks, transcribing from notes, or stenotype, or mechanical equipment, or sound producing machines; preparing reports, receiving callers, and referring them to the proper person; operating office machines, keeping records, and handling routine correspondence." Gr. Proposed Conclusion of Law 3.

2. Grievants, complaining that these workers have inappropriately performed Grievants' duties, seek hiring as full-time Secretary II's.

3. No evidence was presented that full-time Secretary II positions have ever existed at Grievants' schools.

#### CONCLUSIONS OF LAW

1. Grievants have the burden of proving their claims by a preponderance of the evidence. Black v. Cabell Co. Bd. of Educ., Docket No. 06-88-238 (Jan. 31, 1989).

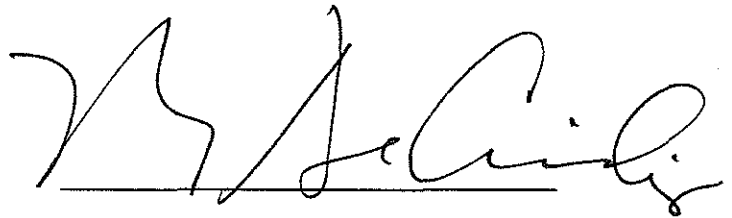
2. The West Virginia Education and State Employees Grievance Board is without authority to order Respondent to extend Grievants' assignments from part-time Secretary II to full-time Secretary II at their schools.

3. "Inasmuch as the relief Grievant[s] seek[] is wholly unavailable to. . .[them] in this forum, this grievance must be denied." Carney v. DVR, Docket No. VR-88-055 (Mar. 28, 1989). Also, see WVESEGB Rule 4.9. Grievants have failed to state a claim upon which relief can be granted.

Accordingly, the grievance is **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 "M. Drew Crislip", written over a horizontal line.

M. DREW CRISLIP  
HEARING EXAMINER

Dated: June 28, 1989