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

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REBECCA WELLMAN

v.

Docket No. 50-88-237

WAYNE COUNTY BOARD OF EDUCATION

DECISION

Grievant Rebecca Wellman is employed by Respondent Wayne County Board of Education as a business education instructor at Buffalo High School. She was an unsuccessful applicant for the position of Placement Coordinator and Evening Class Coordinator, Wayne County Northern Vocational/Technical Center (VTC), and grieved her non-selection at Level IV on December 5, 1988 after denials at Levels I and II and Respondent's waiver of consideration at Level III. The Level IV hearing was conducted January 18, 1989, and the parties, with leave of the undersigned, agreed that the case was appropriate for resolution without further submission.

Grievant was one of six applicants for the post in question,¹ which was characterized in the vacancy notice as requiring "Certification: Administrative Certificate; Secondary Principal Certificate." It was established at Level IV that Mr. Jerry Workman, the successful candidate, was the only person seeking the job qualified as a junior/senior high school principal.² Workman is also certified in language arts, health and physical education, and safety education, but did not and does not have certification as a vocational administrator; Grievant had completed all requirements for this latter-mentioned status but Respondent had no official record of this from the West Virginia Department of Education, the certifying authority, when

¹Grievant failed to present evidence of the qualifications of any of these persons aside from herself and Mr. Jerry Workman, the successful applicant. In most circumstances, this alone would be basis for denial of the grievance; however, due to other particulars of this case and the outcome herein, the error is harmless. See, e.g., Wilcox v. Wyoming Co. Bd. of Educ., Docket No. 55-88-083 (Aug. 2, 1988).

None of the six applicants was interviewed; Grievant, without citing any authority therefor, alleged an unspecified inequity in this procedure. While a more thorough understanding of any job applicant's qualifications might be available through interview, there is no mandate that county boards of education in West Virginia conduct such prior to making personnel decisions.

²Workman's principal's certification was provisional and expired June 30, 1988. According to unrefuted testimony at Level IV, Workman has a renewed provisional certificate, valid through June 30, 1991, on file with Respondent; apparently, such was not true at the time he was hired at VTC. At all times pertinent to this grievance, Workman has been without certification in any vocational area.

applications were reviewed.³ Grievant is also certified in business education and as a coordinator of co-operative education,⁴ but has never been in secondary principalship.

Grievant cited West Virginia Department of Education Policy 5121, "Certification of Vocational Administrators," which provides, in pertinent part, as follows:

The vocational administrator provides leadership/management for a staff of supervisors, coordinators, and teachers to operate a variety of occupational training programs. . . .

. . . [T]he vocational administrator may be responsible for the direction of vocational programming. . . . The person may currently utilize a job title of ". . . vocational center principal or assistant principal, or some other title." An administrator who holds a full time position described above must qualify for and hold certification as a vocational administrator for employment and funding purposes regardless of his current local job title.

The job vacancy notice listed the following "DUTIES:
...Placement Coordinator...Pell Grant [financial aid]
Coordinator...Evening Class Coordinator...Administrative

³The extent to which this is Grievant's fault is somewhat unclear from the record. See, e.g., Evans v. Berkeley Co. Bd. of Educ., Docket No. 02-88-026-2 (June 13, 1988). At any rate, Respondent was aware that Grievant had at least completed several classes and perhaps that she had met other requirements toward her vocational administrator's certification. At the Level IV hearing, Grievant testified that she had recently "paid her five dollars" and the documentation should be en route to Respondent from the West Virginia Department of Education, if not already received.

⁴Co-operative education is a program which permits its participants, high school students, to perform monitored work in community businesses for both pay and class credit.

Duties...Work directly with [VTC] Director in dealing with administrative duties." The notice also indicated that the job was to be paid "per Assistant Principal salary schedule."⁵ Mr. Jim Hale, Respondent's Vocational Director, testified at Level IV that evening classes included not only county vocational offerings, but also college courses from Marshall University.⁶

Respondent conceded that the job is seventy-five percent-plus administrative but contended that it is "not necessarily vocational" and that Policy 5212 does not insist that all administrators employed at a VTC-like facility be vocationally qualified. Respondent further explained its plans include the location of an academic center/comprehensive high school for gifted students on the VTC campus and the eventual assumption of administrative responsibilities with that project by the Placement/Evening Class Coordinator. See, e.g., T. 17, Level II.⁷

⁵At various times throughout these proceedings, the title of the position in question has, apparently incorrectly, been referred to as "Assistant Principal." However, the evidence at least suggests that the job is indeed on an Assistant Principal level.

⁶The subject-matter of these college courses was not revealed. Hale also stated it was his "aspiration" to add "hobby classes" to the evening curriculum at VTC.

⁷Grievant alleged at Level IV that the stated job requirements were designed with Mr. Workman in mind. The undersigned is not in a position to comment on that assertion one way or the other.

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

FINDINGS OF FACT

1. Grievant was one of six applicants for the position of Placement/Evening Class Coordinator, Wayne County Northern Vocational-Technical Center (VTC). The posted vacancy notice stated that secondary principalship was the lone certification required. Mr. Jerry Workman was the only applicant with this certification and was awarded the job.

2. Grievant had completed all requirements for certification as a vocational coordinator at the time of her application, save perhaps the payment of a five dollar fee to the West Virginia Department of Education (DOE). While Respondent had knowledge that Grievant had completed at least some of these requirements, it had no official notification from DOE that she had been so certified.

3. Respondent's intention was and is for the Placement/Evening Class Coordinator to eventually assume administrative responsibilities for the academic center/comprehensive high school for gifted students which it plans to locate on the VTC campus. This was not reflected on the job posting or otherwise revealed to the pool of potential applicants.

4. At present, the post of Placement/Evening Class Coordinator is both supervisory and substantively vocational in nature, in that it involves work placement, curriculum management, and general administration, including directly assisting VTC's Director (i.e., Principal) with his/her administrative duties.

CONCLUSIONS OF LAW

1. West Virginia Department of Education Policy 5121 requires that vocational administrators must be specially certified in that field "regardless of. . .job title."

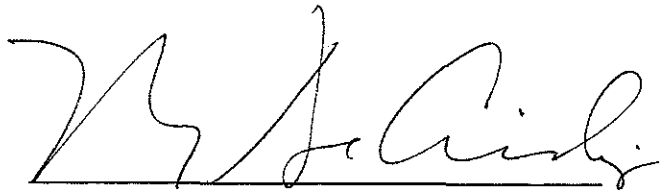
2. The Placement/Evening Class Coordinator is a "vocational administrator" within the meaning of Policy 5121.

3. A county board of education has substantial discretion in matters relating to the hiring of school personnel, but must exercise the same in an open and reasonable and not arbitrary and capricious manner. Dillon v. Bd. of Educ. of the Co. of Wyoming, 351 S.E.2d 58 (W.Va. 1986).

4. A professional vacancy notice posting must contain all requirements for the position. See W.Va. Code §18A-4-8b(a); Rash v. Wayne Co. Bd. of Educ., Docket No. 50-87-263-1 (June 7, 1988). Respondent's future plans for the position of

Placement/Evening Class Coordinator were not included in the posting and did not justify its selection process in this case. See Dillon.

Accordingly, this grievance is **GRANTED**, only to the extent that Respondent is **ORDERED** to forthwith re-post the position in question in an open and complete fashion in accordance with W.Va. Code §18A-4-8b(a), and to mail a copy of that posting, certified mail, to all six of the original applicants. To all other extents, this grievance is **DENIED**.



M. DREW CRISLIP
HEARING EXAMINER

Dated:

January 31, 1989