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**WEST VIRGINIA EDUCATION AND
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SANDRA ZILER

v.

DOCKET NO. 02-88-221

BERKELEY COUNTY BOARD OF EDUCATION

DECISION

Grievant, Sandra Ziler, is employed by the Berkeley County Board of Education (Board) as a secretary III assigned to the office of the Assistant Superintendent for Personnel. Ms. Ziler filed a level four grievance on November 21, 1988 in which she alleged that three similarly-situated secretaries had been upgraded to Executive Secretary I with a salary increase of \$1,000.00 while she had not received the same promotion or salary supplement. The grievance had previously been denied at levels one and two and was waived by the Board at level three. An evidentiary hearing was held at level four on March 30, 1989, with proposed findings of fact and conclusions of law submitted by May 25.

The facts in this matter are not in dispute. In July 1989 the Board created three new job classifications:

Executive Secretary I, Executive Secretary II and Executive Secretary III and awarded supplements to these positions of \$1,000.00, \$1,715.00 and \$2,000.00, respectively. After adoption of the new classifications the positions of several secretaries were reclassified, including those of three secretaries assigned to Assistant Superintendents, which were upgraded from Secretary III to Executive Secretary I. Not all secretarial positions assigned to Assistant Superintendents were upgraded. For example, the position held by Linda Sponaugle, who was also a Secretary III assigned to the office of Dr. Alan Canonico, Assistant Superintendent for Personnel, was upgraded to Executive Secretary I while the grievant's position remained classified as Secretary III.

The grievant argues that her duties are of a similar nature to those of Ms. Sponaugle's and meets the definition of "executive secretary" as defined by W.Va. Code §18A-4-8. She asserts that the failure to upgrade her position is also in violation of W.Va. Code §18A-4-8b, which requires that salary supplements be awarded on a uniform basis to employees within the same classification performing similar assignments.

The Board denies that the grievant performs duties comparable to those of the executive secretaries who engage in activities requiring that they work independently and exercise discretion in the completion of their assignments.

It denies that the grievant is misclassified or has been otherwise harmed by the upgrading of other positions.

At the level four hearing the grievant testified that her duties include the organization of information and preparation of the agenda for Board meetings, the issuance of letters relating to Board actions affecting employees, receiving requests from administrators to advertise positions, organization and preparation of job postings for all locations, answering telephone inquiries regarding applications and reviewing service personnel applications. The grievant prepares transfer letters and compiles lists of those employees to be considered for transfer, briefs substitute employees on the completion of forms, monitors employee time testing and makes appointments for Dr. Canonico.

Testifying on behalf of the Board, Dr. Canonico disagreed that the grievant and Ms. Sponaugle perform similar duties. Dr. Canonico characterized the position now designated as Executive Secretary I as consisting primarily of administrative duties requiring independent decisions while the grievant works under supervision and does not apply her own judgment in those matters for which she is responsible.

Dr. Canonico stated that his Executive Secretary works extensively in teacher recruitment. She schedules interview sessions at various colleges which she selects, coordinates all travel arrangements, monitors minority recruitment, prepares an information packet, etc. She also is

responsible for administering the grievance process, advising employees of guidelines, securing a court reporter and maintaining the files. She reviews all correspondence and responds herself when possible, drafting the document without supervision. She handles all incoming calls, controls Dr. Canonico's calendar and is responsible for all confidential correspondence.¹

W.Va. Code §18A-4-8 defines "Secretary III" as personnel assigned to the county board of education office administrators in charge of various programs or departments or any personnel who have served in a position which meets the definition of Secretary II or III for a period of twelve years. "Executive Secretary" is defined as personnel employed as the county school superintendent's secretary or as a secretary assigned to a position characterized by significant administrative duties.

While the grievant is responsible for the gathering and compiling of information her duties do not require that she exercise independent judgment, be solely responsible for the completion of any project or that she supervise other employees. The differences between the grievant's duties as

¹Ms. Sponaule additionally appears to be the grievant's supervisor in that she reviews grievant's work. See Board Exhibit No. 7, a letter dated July 15, 1987, from Dr. Canonico to the grievant at the time she joined his staff. In a list of grievant's basic duties No. 8 states "All work, when completed, is given to Linda for final review...".

Secretary III and the duties of the Executive Secretary justify the upgrading of Ms. Sponaugle's position which results in both employees being properly classified under the statutory position definitions.

In support of her argument that the salary supplement awarded to the Executive Secretaries must be awarded to all secretaries the grievant cites W.Va. Code §18A-4-8b which provides that positions with Roman numeral designations shall be considered a single employment classification and that the executive secretary class title shall be included in the same classification category as secretaries. Based upon this authority the grievant reasons that she would also be entitled to a salary supplement but does not indicate whether it should be in the amount of \$1,000.00, \$1,715.00 or \$2,000.00.

The grievant's reliance on the above-cited statutory section is erroneous since it simply defines classification category and promotion either within a category or by transfer to another category. The cited reference does not refer to uniformity of salary supplements which is addressed in W.Va. Code §18A-4-5b. This section requires that any county salary schedules in excess of the state minimum schedules be awarded on a uniform basis throughout the county with regard to any training classification, experience, years of employment, responsibility, duties, pupil participation, pupil enrollment, size of buildings, operation of equipment or other requirements. While all

secretaries are to be considered as one classification category for employment and promotion purposes, Code §18-A-4-8a clearly establishes that they are considered to be separate categories for safety purposes as it assigns each a separate paygrade: Secretary I, paygrade D; Secretary II, paygrade E; Secretary III, paygrade F and Executive Secretary, paygrade G. In that the supplement was awarded to all of the members of a classification defined by duties and title it is in compliance with the statutory uniformity requirements.

In addition to the foregoing narration it is appropriate to make the following specific findings of fact and conclusions of law.

Findings of Fact

1. The grievant is employed by the Berkeley County Board of Education as a Secretary III assigned to the office of the Assistant Superintendent in charge of Personnel.

2. In July 1988 the Board created three new employment classifications, Executive Secretary I, Executive Secretary II and Executive Secretary III with salary supplements of \$1,000.00, \$1,715.00 and \$2,000.00, respectively.

3. Linda Sponaugle, also a Secretary III assigned to Personnel, holds one of several secretarial positions upgraded to Executive Secretary I while the grievant's position remained classified as a Secretary III.

4. The grievant is assigned specific job duties including the typing of personnel actions for the Board

agenda and follow-up letters as a result of Board action. She completes forms for new personnel, prepares job postings, handles telephone inquiries, maintains records relating to personnel evaluations and time testing and performs other general duties.

5. Linda Sponaugle coordinates the personnel recruiting program and the grievance process. She manages Dr. Canonico's schedule, answers correspondence and performs other related duties.

6. The grievant works under general supervision and performs routine duties which require no independent judgment or decision making on her part. Ms. Sponaugle is responsible for the daily administrative functioning of programs directed by the Personnel office and she exercises considerable independent judgment, conducting much of her work without any direct supervision.

7. While all classifications of secretaries are considered one category of employment for some purposes the statutory salary schedule establishes that each classification is considered independently for salary purposes.

Conclusions of Law

1. It is incumbent upon a grievant seeking relief pursuant to W.Va. Code §§18-29-1 et seq. to prove all of the allegations constituting the grievance by a preponderance of the evidence. Hart v. Berkeley County Board of Education, Docket No. 89-02-80 (May 31, 1989); Romeo v. Harrison

County Board of Education, Docket No. 17-88-013 (Sept. 30, 1988).

2. The grievant has failed to show that her position is characterized by significant administrative duties which would require that it be upgraded to Executive Secretary as defined by W.Va Code §18A-4-8.

3. Salary supplements awarded to Executive Secretaries are not in violation of the uniformity provision of W.Va. Code §18A-4-5b.

4. The grievant has failed to establish that she is entitled to any additional salary supplement awarded to Executive Secretaries.

Accordingly, the grievance is DENIED.

Either party may appeal this decision to the Circuit Court of Berkeley County or to 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) 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.

DATED: June 30, 1989

Sue Keller
SUE KELLER

SENIOR HEARING EXAMINER