

JUDY CLARK and JOANN WALKER,

Grievants,

v.

DOCKET NO. 95-20-559

KANAWHA COUNTY BOARD OF EDUCATION,

Respondent.

D E C I S I O N

Grievants, Judy Clark and Joann Walker, filed this grievance on October 19, 1995, alleging

. . . the Respondent has violated West Virginia Code §18A-4-5b in establishing a nonuniform pay scale for the "Coordinator of Services" classification. Grievants seek a salary increase to equalize their salary supplement with the one received by James Wiley and backpay retroactive to the date the [the] discrepancy [sic] came into existence.

Following adverse decisions at the lower levels, Grievants appealed to Level IV on December 14, 1995. Hearing was held on February 20, 1996, and this case became mature for decision upon receipt of Grievants' Proposed Findings of Fact and Conclusions of Law on March 19, 1996.

The material facts are not in dispute and are summarized as follows:

Findings of Fact

1. Grievants are employed as Coordinators of Services by Respondent Kanawha County Board of Education.
2. Respondent employs six "Coordinators of Services". Five, including Grievants, are employed at the central office, and the sixth, James Wiley, is employed at Laidley Field.
3. Grievants and the other Coordinators of Services in the central office

are paid on the county Paygrade H-1 service salary schedule.

4. Mr. Wiley is paid on the county Technical and Specialty Salary Schedule.

5. Grievant Clark has been employed by Respondent for twenty (20) years, and is currently classified as Accountant III/Coordinator of Services for Restricted Projects. She works with the Treasurer in monitoring and otherwise working with restricted projects and their budgets, such as RESA, Head Start, Title I, etc. She has no supervisory responsibilities. LIII, G. Ex. 1.

6. Grievant Walker has been employed by Respondent for twenty-seven (27) years, and is currently classified as Coordinator of Services/Communications Center. She supervises a small group of employees in the central office's Communication Center, and is responsible for the comprehensive central production and distribution services for all typing, printing, and mailing of materials processed through the Center. LIII, G. Ex.

7. Mr. Wiley has been employed by Respondent for ten (10) years, and is currently classified as Coordinator of Services/Laidley Field. He maintains a multi- million dollar athletic complex and must possess skills and knowledge in multiple crafts, including electricity, plumbing, carpentry, masonry, and all other crafts necessary for the maintenance of the field. LIII, KCS Ex. 1.

8. Grievants are eligible to receive overtime. Mr. Wiley is not eligible to receive overtime, but is often required to work evenings, weekends and on-call at the facility.

9. Mr. Wiley's salary is approximately \$5,000.00 more than the Grievants.

Discussion

Grievants allege Respondent has violated W. Va. Code § 18A-4-5b, entitled "County Salary Supplements for School Service Personnel," the pertinent portion of which provides:

The county board of education may establish salary schedules

which shall be in excess of the state minimums fixed by this article.

These county schedules shall be uniform 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. Further, uniformity shall apply to all salaries, rates of pay, benefits, increments or compensation for all persons regularly employed and performing like assignments and duties within the county. . . .

Grievants contend that since they and Mr. Wiley are all designated as "Coordinators of Services", they should all be paid in a uniform manner. Of course, Grievants wish to be paid the same salary as Mr. Wiley, rather than have Mr. Wiley's salary reduced to more closely match theirs. Grievants aver that, as Coordinators of Services, they perform "like assignments and duties" similar to those performed by Mr. Wiley.

A brief review of the Grievants' job descriptions reveals that they do not perform duties which are substantially similar to Mr. Wiley's. It is clear that Grievants perform financial and clerical duties relating to the operations of the central office, while Mr. Wiley performs technical and maintenance work as the operating technician for Laidley Field. The position at Laidley Field was originally posted as "Laidley Field Facility Plant Operation Technician." The position was classified as "Coordinator of Services" for reporting purposes, as this was the closest match for Mr. Wiley's job duties. Further, Mr. Wiley is not entitled to overtime, although he routinely is required to work more than 40 hours per week. Thus, his placement on the Technical and Speciality Salary Schedule allows the Board to give him a higher salary which compensates for the lack of overtime benefits.

Conclusions of Law

1. In order to prevail on a pay uniformity claim under W. Va. Code § 18A-4-5b, Grievants must show that their duties are substantially similar to another

service employee. See Weimer-Godwin v. Bd. of Educ., 369 S.E.2d 726 (W. Va. 1988); Dillon v. Cabell County Bd. of Educ., Docket No. 93-06-438 (Aug. 9, 1994); Meadows v. Jefferson County Bd. of Educ., Docket No. 19-88-192 (Dec. 29, 1988). 2. Grievants have failed to demonstrate that their positions are so substantially similar to Mr. Wiley's that they perform "like assignments and duties" requiring compensation on the same wage scale under W. Va. Code § 18A-4-5b. See Wetherholt v. Cabell County Bd. of Educ., Docket No. 93-06-017 (June 30, 1993); Dillon v. Cabell County Bd. of Educ., Docket No. 89-06-702 (Aug. 31, 1990), aff'd Case No. 90-C-427 (Cabell County Cir. Ct. Sept. 10, 1990).

Accordingly, this grievance is DENIED.

Any party may appeal this decision 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 Administrative Law Judges is a party to such appeal, and should not be so named. Any appealing party must advise this office of the intent to appeal and provide the civil action number so that the record can be prepared and transmitted to the appropriate court.

MARY JO SWARTZ

Administrative Law Judge

Dated: April 15, 1996