

THOMAS HOFFMAN, .

Grievant, .

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V. . DOCKET NUMBER: 95-29-527

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MINGO COUNTY BOARD OF EDUCATION, .

Employer. .

DECISION

Grievant, Thomas Hoffman, is employed as a teacher by the Mingo County Board of Education. He became the principal at Matewan High School at the beginning of the 1992-1993 school year, but was transferred from that assignment, back to a teaching position, after the beginning of the 1995-1996 school year. He filed the instant grievance, pursuant to West Virginia Code §§18- 29-1, et seq., sometime in October 1995, challenging the Employer's decision to remove him from the position of principal. Grievant seeks reinstatement to his former assignment, back pay, attorney fees and costs. The first grievance hearing was before the Employer, at level three, on November 2, 1995, and the claim was denied. Thereafter, appeal was made to this Grievance Board on November 28, 1995. An evidentiary hearing was held at this Board's Charleston, West Virginia office on January 29, 1996, and the case became mature for decision on February 20, 1996, upon receipt of Grievant's post- hearing brief.

The following findings of fact have been properly deduced from the evidentiary record of the case:

Findings of Fact

1. As principal at Matewan High School (hereinafter Matewan), Grievant was responsible for reviewing and approving various financial reports and/or documents relating to the operations of the school. One source of funds for the school was from the United States Department of Agriculture. The school receives money to provide hot lunches to its faculty, staff and students.

2. In addition, Matewan maintains a bank account for general funds. Grievant was responsible for overseeing this account.

3. Every month, Grievant was required to submit various financial reports and documents to the Employer's treasurer's office located at its central office. Among the documents required were bank checking account reconciliation statements, purchase orders, receipts and deposit slips.

4. Grievant delegated the responsibility of maintaining the financial records of the school's bank accounts to his secretary, Wannetta Sansom. Prior to Grievant being assigned the principal's position at Matewan, Ms. Sansom also maintained these records.

5. Ms. Sansom also sent various financial reports to the Employer's central office on computer disk.

6. Grievant's method of reviewing and approving the financial records of the school, prior to their submission to the central office, was by making a cursory review or glance at the material and then signing the appropriate forms. He was mainly concerned in determining that the bank reconciliation statements balanced with the school's records.

7. The financial reports for the school's hot lunch program were usually submitted to the central office monthly, on a timely basis. The reports for the school's general fund account was not always submitted monthly as required.

8. Typically, the amount of money deposited into the school's hot lunch fund bank account ranged from \$200.00 to \$400.00 monthly. 9. At the end of the 1994-1995 fiscal year, June 30, 1995, it was determined that Matewan's hot lunch fund bank account was short by \$6,175.25. Deposits in this amount were to have been made but no such record of deposits was found. This amount was determined to be, or viewed as deposits in transit, in other words, outstanding deposits not shown on the bank statements for the month they were supposed to be made.

10. In the spring of 1993, the Employer's treasurer Tom Sammons determined that the hot lunch fund at Matewan was not balanced. Grievant was notified of this fact by letter and informed he was responsible for checking into the matter. He was also advised to set up a system to insure that

receipts and deposits were reconciled on a monthly basis.

11. In 1994, Grievant met with treasurer Sammons concerning the record keeping at Matewan. Mr. Sammons offered suggestions to Grievant as to how he should keep Matewan's financial records, and again reiterated that he was responsible for them.

12. An audit of Matewan's receipts and expenditures was completed at the end of the 1994 fiscal year. It was determined that the proper revenue procedures were not being followed for either the general or hot lunch funds.

13. Grievant was asked to attend a meeting with the Employer's superintendent, assistant superintendent and the treasurer on March 31, 1995, to provide summaries of Matewan's financial records. During this meeting, the findings from various audits of Matewan's books were discussed.

14. By letter dated May 15, 1995, Grievant was given an improvement plan for the correction of financial record keeping deficiencies at Matewan. This improvement plan contained specifically identified deficiencies and recommended corrective actions, along with compliance time lines.

15. Grievant's performance was evaluated on June 1, 1995. Grievant's performance was rated as unsatisfactory, and it was noted that the required monthly financial reports were of major concern. Grievant was notified by letter of June 1, 1995, that he was to present a monthly financial report and any additional improvement reports planned for the 1995-1996 school year to the Employer at its next meeting.

16. By letter dated June 15, 1995, Grievant informed Assistant Superintendent John Fullen of procedures he had implemented or intended to implement for the correction of the deficiencies noted on the improvement plan of May 15, 1995.

17. By letter dated September 11, 1995, Grievant was notified by Superintendent Everett Conn that he was to be removed from the position of principal and assigned to a teaching position. The reason given was "financial irregularities in your office regarding the cafeteria receipts." The Employer later met and approved this action.

18. Grievant believed that his secretary, Ms. Sansom, was stealing money from the Employer through manipulating statements received on Matewan's bank accounts. He was suspicious of Ms. Sansom from the time he became principal at Matewan.

19. On Grievant's performance evaluation of Ms. Sansom, he indicated that she was not prompt with financial reports, that the books were not available to him and that totals were not kept up. He

indicated that an improvement plan needed to be devised to address this problem.

20. At the end of the 1993-1994 school year, Grievant was told by one of his teachers who was in charge of collecting money from Matewan's vending machines that Ms. Sansom had stolen money by not depositing in the proper account all of the money he had collected and given to her to

deposit. 21. Grievant had brought this to the attention of Mr. Fullen and Mr. Conn, and had complained on other occasions that he was suspicious of Ms. Sansom's work with the school's accounts.

22. At the beginning of the 1992-1993 school year, Grievant enlisted the help of the business teacher at Matewan to verify the accuracy of the financial records kept by Ms. Sansom. Grievant did not believe that this arrangement was feasible for the succeeding school year.

23. The Employer has trained its secretaries on the proper techniques for keeping financial records. No such training has been provided to principals.

24. On at least one occasion, Ms. Sansom had failed to attend a scheduled meeting with Mr. Fullen and Grievant concerning the keeping of the financial records at Matewan.

25. During the summer or early fall, 1995, Grievant and Ms. Sansom met with Mr. Fullen. After this meeting, the three individuals went to Matewan and searched the school's administrative office for any information to explain the missing \$6,175.25. Ultimately, \$3,175.25 was found in a file cabinet. Along with this money was a deposit slip made out by Ms. Sansom in the amount of \$6,175.25.

26. Thereafter, the Employer requested that the State Board of Education conduct an investigation into this matter. An initial investigation revealed that the bank reconciliation statements for the school's hot lunch fund for the 1994-1995 school year repeatedly showed an escalating amount of money identified as deposits in transit, although no corresponding deposits ever showed up on succeeding bank statements. In essence, the increasing deposit in transit amounts were provided to cover-up for money which was not being deposited.

Discussion

Grievant contends that he should not have been removed from the position of principal at Matewan. He avers that he played no role in whatever actions resulted in the hot lunch fund bank account being short. He asserts that he was not provided sufficient training by the Employer to have

allowed him to recognize that any irregularities were occurring in the keeping of the financial records at the school. He testified that he made the administration aware that Ms. Sansom was not performing her job adequately and could not be trusted, however, no action was taken to alleviate the problem. He maintains that he was neither incompetent nor did he neglect his duty. He opines that the Employer's treasurer and director of food service should have caught any errors in the record keeping even if he did not.

The Employer asserts that pursuant to W. Va. Code §18A-2-9, Grievant was responsible for the administration of his school and should be held responsible for the conduct of his subordinates. This Code Section provides, in pertinent part,

Upon the recommendation of the county superintendent of schools, the county board of education shall employ and assign, through written contract, public school principals who shall supervise the management and the operation of the school or schools to which they are assigned. Such principals shall hold valid administrative certificates appropriate for their assignment.

. . .

Under the supervision of the superintendent and in accordance with the rules and regulations of the county board of education, the principal shall assume administrative and instructional supervisory responsibility for the planning, management, operation and evaluation of the total educational program of the school or schools to which he is assigned.

It maintains that he did not ensure consistent, accurate or timely financial records were kept or submitted to the central office. It argues that the "buck stopped with Grievant" with regard to the keeping of financial records at Matewan and that he did not maintain appropriate procedures for the school's financial record- keeping.

The removal of a professional employee from the position of principal and reassignment to teaching duties is recognized as a transfer. See, Board of Education v. Townshend, 418 S.E.2d 359 (W. Va. 1992). Such transfer can either be based upon administrative reasons or can be disciplinary in nature. Holland v. Board of Education of Raleigh County, 327 S.E.2d 155 (W. Va. 1985). Here, Grievant's transfer can only be classified as disciplinary as the reason for the transfer was based upon the performance of his duties as principal. The Employer must establish sufficient evidence to support its reasons for Grievant's transfer.

It is noted that Grievant has not alleged a specific violation of the provisions of West Virginia

Board of Education Policy 5310 that establishes requirements for performance evaluations and improvement plans. He does contend in his post-hearing brief that he was not provided the necessary training or assistance as required under Policy 5300 that would have prevented his "oversight error." The facts support that Grievant's performance was evaluated and that an improvement plan was adopted for correcting his administration. Grievant has failed to allege or prove by a preponderance of the evidence any specific violation, misapplication or misinterpretation of Policy 5310. [\(See footnote 1\)](#)

The Employer has established sufficient evidence to find that the financial records kept at Matewan were insufficient, often submitted in an untimely manner and not accurate with regard to the monthly balances in at least one back checking account. The record establishes by a preponderance of the evidence that the hot lunch fund at Matewan was in the red at the end of the 1995 fiscal year, by a large amount, and that this was, in part, a result of insufficient record keeping and irresponsible financial management. [\(See footnote 2\)](#) The question is whether the Employer was justified in holding Grievant responsible, supporting his transfer.

In essence, Grievant argues that his performance did not warrant his transfer because he performed his duties to the best of his ability. He contends that he reviewed the financial records, on a monthly basis, to the best of his ability, and was not trained sufficiently to be able to recognize the errors in the record keeping that resulted in the large deficit at the end of the year. He also cites to the fact that he had made it known Ms. Sansom was not complying with her responsibilities, but he was not given any assistance to rectify the problem.

Grievant's arguments and version of the facts are not persuasive. The evidence establishes that not only was the hot lunch fund bank account deficient of funds at the end of the 1995 fiscal year, but that Grievant had not assured that proper receipting, depositing and invoicing procedures were established to maintain a constant evaluation of that account and of the general fund account. Grievant did not actively supervise Ms. Sansom in a sufficient manner to assure that she was providing the level of support to him that he could count on to assure his responsibilities could be met. There are more ways to supervise an employee who is not performing adequately than to simply provide that employee with negative performance ratings or to complain to one's superiors that the employee is not performing her job duties adequately.

The record supports the conclusion that Grievant did little more than make a cursory review of

any financial documents provided to him before submitting them to the central office. Grievant's argument that he was not trained sufficiently in accounting or bookkeeping techniques to enable him to review the books better is simply unpersuasive. It seems specious to contend that an administrator would need any training at all to recognize a problem exists in the balancing of a checking account when the bank statements for that account continually show hundreds, then thousands of dollars as deposits in transit each month. This is especially disturbing, given the testimony that the sum of money provided Matewan for this account averages between \$200.00 and \$400.00 per month.

The Undersigned is also at a loss to understand how the Director of the program for the Employer, within the central office, was not more aware of the financial inconsistencies with this fund than it appears she was. Further, it is curious as to why Ms. Sansom was allowed and even expected to handle the school's bank records after it was alleged to Mr. Fullen, Mr. Conn and Mr. Sammons that she had engaged in theft. Whatever blame needs to be assessed in this case, obviously cannot rest solely with Grievant. However, he should not and cannot be excused from the responsibilities he possessed as principal and administrator of Matewan. In conclusion, the Employer has provided sufficient evidence to support its decision to transfer Grievant from his position of principal to that of teacher.

The foregoing discussion of the case shall be supplemented by the following appropriately made conclusions of law:

Conclusions of Law

1. The action in this case was a disciplinary transfer based upon alleged misconduct on behalf of Grievant. Holland v. Board of Education of Raleigh County, 327 S.E.2d 155 (W. Va. 1985). Grievant has not been terminated from his employment.

2. The Employer has established sufficient justification for Grievant's transfer. Grievant has not proven by a preponderance of the evidence that his transfer was an excessive penalty or the result of an abuse of discretion.

3. Grievant has not established a violation of West Virginia Board of Education Policy 5310.

Therefore, this grievance is hereby **DENIED**.

Any party may appeal this decision to the Circuit Court of Kanawha County or to the Circuit Court of Mingo 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.

ALBERT C. DUNN, JR.

Administrative Law Judge

May 31, 1996

[Footnote: 1](#)

Policy 5300 establishes various principles which are found to exist between boards of education and school personnel. One of these principles is that every employee is entitled to know how he/she is performing and should be offered an open and honest evaluation of his/her performance on a regular period. Policy 5310 specifically deals with performance evaluations and improvement plans.

[Footnote: 2](#)

It is not necessary within the context of this case to make any specific factual findings or draw legal conclusions as to whether any criminal conduct occurred with regard to the financial mismanagement of the bank accounts at Matewan.