KAREN TASKER,

Grievant,

v. **DOCKET NO. 98-28-215**

MINERAL COUNTY BOARD OF EDUCATION,

Respondent.

DECISION

Grievant, Karen Tasker, alleges she was wrongfully denied reclassification as a Secretary II/Accountant II by her employer, the Mineral County Board of Education ("Board"). This grievance was initiated at level one on May 1, 1998, where her immediate supervisor denied the grievance on May 7, 1998. Grievant appealed to level two on May 15, 1998, where a level two hearing was conducted on May 27, 1998. The grievance was denied at level two in a written decision by Superintendent Charles Kalbaugh dated June 3, 1998. Upon appeal to level three, a hearing was conducted before Rudy Sites, President of the Board, on June 15, 1998, followed by a decision denying the grievance, also dated June 15, 1998. Grievant appealed to level four on June 19, 1998. After a continuance granted for good cause shown, a level four hearing was held in the Grievance Board's office in Morgantown, West Virginia, on September 4,1998. This matter became mature for consideration on October 2, 1998, upon receipt of the parties' post-hearing submissions. (See footnote 1)

The following findings of fact are made from a preponderance of the evidenceintroduced at all levels of the grievance procedure.

Findings of Fact

1. Grievant has been employed by the Board as a Secretary II at Keyser Primary-Middle School since 1996.

2. On April 22, 1998, the Board voted to change the classification of all school secretaries who

had accounting duties to the multi-classification of Secretary II/Accountant II.

3. Grievant was not reclassified as a result of the April 22, 1998, decision.

4. Beginning on April 10, 1998, David Albani, Principal of Keyser Primary-Middle School, assigned Grievant duties associated with the “Teachers' Fund.”

5. The Teachers' Fund is voluntarily maintained by the teachers at Keyser Primary-Middle School. All funds in the account come from vending machines in the teachers' lounge, and the money is used to purchase flowers, gifts and similar items for teachers. Such purchases cannot be made from board of education or school funds.

6. Grievant does not perform duties associated with the Teachers' Fund every day.

7. Grievant's duties associated with the Teachers' Fund are:

_ Counting the money from the machines

_ Making a bank deposit every 3 to 4 days

_ Balancing the monthly bank statement

_ Paying the bill for the machines at the end of each month

_ Ordering food for the machines

8. The Teachers' Fund is maintained separately from all other school accounts,and no monthly or annual reports to the Board are required from it, as are required from the general fund, club accounts, and hot lunch program.

Discussion

Because a misclassification grievance is non-disciplinary in nature, Grievant has the burden of proving her case by a preponderance of the evidence. Midkiff v. Lincoln County Bd. of Educ., Docket No. 95-22-262 (Mar. 3, 1996); Perdue v. Mercer County Bd. of Educ., Docket No. 92-27-280 (Mar. 29, 1993). In order to prevail on a claim that her position is misclassified, an employee must establish, by a preponderance of the evidence, that her duties more closely match those of another

classification defined by Code §18A-4-8, other than that under which her position is categorized. Pope v. Mingo County Bd. of Educ., Docket No. 91-28-068 (July 31, 1992).

However, "simply being required to undertake some responsibilities normally associated with a higher classification, even regularly, does not render a grievant misclassified per se." Hatfield v. Mingo County Bd. of Educ., Docket No. 91-29-077 (Apr. 15, 1996). “Because of similarities in the nature of certain jobs listed in Code §18A-4-8, two or more job definitions may encompass the same duties. Proof that an employee performs such 'crossover' duties does not necessarily mandate that his position be reclassified." Conclusion of Law 4, Graham v. Nicholas County Bd. of Educ., Docket No. 93-34-224 (Jan. 6, 1994). Incidental duties which are not outside the responsibilities defined for a class title, and which require an inconsequential amount of time to complete, will not warrant a different classification, if the remainder of one's duties are accurately described by one's current classification. Graham, citing Martin v. Fayette County Bd. of Educ., Docket No. 89-10-110 (July 20, 1989). In the instant case, Grievant is seeking to be multiclassified as a Secretary II/Accountant II. "`Multiclassification' means personnel employed to perform tasks that involve the combination of two or more class titles in this section. In such instances the minimum salary scale shall be the higher pay grade of the class title involved." W. Va. Code § 18A-4-8. "When seeking a `multi-classification', a grievant must establish . . . that his duties encompass those of all Code §18A-4-8 positions identified." Kinstler v. Raleigh County Bd. of Educ., Docket No. 92-41-468 (June 23, 1993).

Unfortunately, the statutes do not address the portion of time an employee must spend on duties not encompassed by his class title to qualify for multi-classification or reclassification. However, this Grievance Board has recognized that, while a worker may be required to perform occasional "overlap" duties of another distinct class, if the assignments are specified in the worker's job description and are reasonably related to the duties contemplated by the statutory description of the presently-held classification, reclassification or multi-classification is not required. See Boyer v. Wood County Bd. of Educ., Docket No. 90-54-196 (Jan. 29, 1991). Conversely, when a worker regularly performs work in her own and another classification, multi-classification is required. Bailey v. Mercer County Bd. of Educ., Docket No. 91-274-158 (Jan. 31, 1992).

Code § 18A-4-8 defines the class titles for school service personnel. The class titles at issue here are defined as follows:

> 'Accountant II' means personnel employed to maintain accounting records and to be responsible for the accounting process associated with billing, budgets, purchasing

and related operations.

> 'Secretary II' means personnel employed in any elementary, secondary, kindergarten, nursery, special education, vocational or any other school as a secretary. The duties may include performing general clericaltasks, transcribing from notes or stenotype or mechanical equipment or a sound-producing machine, preparing reports, receiving callers and referring them to proper persons, operating office machines, keeping records and handling routine correspondence. There is nothing implied herein that would prevent such employees from holding or being elevated to a higher classification.

The issue of multi-classification for secretaries who perform accounting duties has been addressed several times by this Grievance Board, most recently in Lilly, et al., v. Harrison County Bd. of Educ., Docket No. 97-17-330 (April 13, 1998). In that case, reclassification was deemed to be appropriate for secretaries who spent three to seven hours daily performing tasks such as collecting money, counting and depositing funds, issuing checks and receipts, balancing accounts, preparing monthly and yearly financial reports regarding accounts, preparing purchase orders, and maintaining account ledgers. Other cases in which reclassification was found to be warranted also involved secretaries who performed similar accounting duties for several hours each day, constituting at least half of their daily duties. See Akers v. Raleigh County Bd. of Educ., Docket No. 97-41-301 (Oct. 30, 1997); Ellison v. Fayette County Bd. of Educ., Docket No. 97-10-258 (Sept. 18, 1997); Higgins v. Randolph County Bd. of Educ., Docket No. 94-42-1111 (Dec. 27, 1995).

In Akers, supra, the administrative law judge found that an employee who spent over fifty percent of her time performing accounting-related duties should have been multi- classified, reasoning:

> While a small amount of time spent on one or two financial tasks might be considered 'incidental,' the amount of time spent by Grievant on such tasks cannot be viewed as 'inconsequential' and the duties thus cannot be considered as 'incidental' to her more traditional secretarial tasks.

Grievant's responsibility for the Teachers' Fund could easily be described as “keeping records,” as set forth in the definition of Secretary II. Moreover, maintenance ofa single bank account does not constitute responsibility for “the accounting process associated with billing, budgets, purchasing and related operations.” Unlike other secretaries who have won their case of multi-classification, Grievant is not performing duties like maintaining a budget, issuing purchase orders, issuing receipts, and filing

regular reports. In addition, and most importantly, Grievant spends a small fraction of her time performing these duties, rather than half or more of her daily work time.

The undersigned finds that Grievant's responsibility for the Teachers' Fund is incidental to her traditional secretarial duties. Her duties in this regard do not fit within the statutory definition of "Accountant II," so she is not entitled to the multi-classification of Secretary II/Accountant II.

The following conclusions of law support the decision reached.

Conclusions of Law

1. In a misclassification grievance, the grievant has the burden of proving her case by a preponderance of the evidence. Midkiff v. Lincoln County Bd. of Educ., Docket No. 95-22-262 (Mar. 3, 1996); Perdue v. Mercer County Bd. of Educ., Docket No. 92-27-280 (Mar. 29, 1993).

2. Incidental duties which are not outside the responsibilities defined for a class title, and which require an inconsequential amount of time to complete, will not warrant a different classification, if the remainder of one's duties are accurately described by one's current classification. Graham v. Nicholas County Bd. of Educ., Docket No. 93-34-224 (Jan. 6, 1994) (citing Martin v. Fayette County Bd. of Educ., Docket No. 89-10-110 (July 20, 1989)).

3. "'Accountant II' means personnel employed to maintain accounting recordsand to be responsible for the accounting process associated with billing, budgets, purchasing and related operations." W. Va. Code §18A-4-8.

4. Grievant's responsibilities regarding the Teachers' Fund are not associated with the "accounting process" as contemplated by W. Va. Code §18A-4-8.

5. Grievant's duties connected with the Teachers' Fund are incidental to her secretarial duties.

6. Grievant is not entitled to reclassification as a Secretary II/Accountant II.

Accordingly, this grievance is **DENIED**.

Any party may appeal this Decision to the Circuit Court of Kanawha County or the Circuit Court of Mineral 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.

Date: October 28, 1998 _____

DENISE MANNING SPATAFORE

Administrative Law Judge

Footnote: 1

Grievant was represented at level four by attorney Timothy Sirk, and Respondent was represented by attorney Kimberly Croyle.