KATHY BEAHM and SHEILA K. HIMES,

Grievants,

v. DOCKET NO. 98-42-241

RANDOLPH COUNTY BOARD OF EDUCATION,

Respondent.

DECISION

These grievances were submitted by Grievants Kathy Beahm and Sheila K. Himes against Respondent Randolph County Board of Education ("RBOE"), on March 23, 1998. They both alleged they were not properly classified as a Secretary III, in violation of W. Va. Code §§ 18A-4-5 (See footnote 1) and 18A-4-8. Grievant Beahm sought as relief reclassification to Executive Secretary and backpay and all benefits due. Grievant Himes sought as relief reclassification as an Executive Secretary/Accountant I or III, and backpay to July 1, 1997, and all benefits due. (See footnote 2)

The following Findings of Fact are made based upon the evidence presented at Level II.

Findings of Fact

1. Grievant Himes is employed by RBOE as a Secretary III, assigned to work for Clifford Wilmoth, Administrative Assistant, Director of Facilities, Director of Transportation, and Director of Vocational Education. She has been employed in this classification since July 1, 1997, and has been employed by RBOE 16 and a half years.

2. Grievant Beahm is employed by RBOE as a Secretary III, assigned to work for Barbara Korn, Administrative Assistant in charge of Elementary Curriculum, Director of Federal Programs.

3. Neither Grievant serves as the Superintendent's secretary.

4. RBOE does not have a job description for Executive Secretary. It has a job description for Executive Secretary - Superintendent's Office/Certification Officer, which states that this employee reports to the county superintendent. It lists 27 numbered responsibilities. Although Grievant Beahm

performs many of the listed duties of an Executive Secretary, all of those duties are also listed in the RBOE job description for a Secretary III, except "[t]akes and transcribes dictation which may be of a technical and/or confidential nature," "[s]ets up and types materials, reports and similar presentations,usually in prescribed form, but with some individual judgment," making reservations, and administrative tasks.

5. Grievant Beahm's administrative duties consist of making decisions in her supervisor's absence when something arises which requires immediate attention, signing her supervisor's name to authorize field trips which do not involve money in her supervisor's absence and which her supervisor has already approved, compiling SAT-9 test scores, listing those students who fall below the 50th percentile, making reservations for her supervisor, Title I staff, and for presenters who come in to do workshops, scheduling appointments, assisting her supervisor in preparing for staff development by selecting continuing education which meets compliance standards, preparing needs assessment forms and distributing them to teachers, compiling survey results, answering parent questions about criteria for Title I Services and Title I guidelines relating to the county, writing newspaper articles, answering principals' questions about Title I teachers substituting, interpreting policy for teachers and principals when her supervisor is out of the office, supplying data to the State Department on elementary curriculum and federal programs upon request, assisting her supervisor in developing Education First grants, preparing requisitions and purchase orders, choosing the color, print, and style of report cards, typing math field day tests and answer sheets, copying and distributing tests, assisting with grants, textbook adoptions, elementary curriculum goals, workshops, elementary curriculum memos and correspondence, and preparing Reading Council and Art Bank correspondence. 6. Margaret Gutshall worked in the position Grievant Beahm currently holds immediately before Grievant, performed duties similar to those performed by Grievant Beahm, and was classified as an Executive Secretary.

7. Grievant Himes performs duties as the billing agent for Medicaid. She performs several duties which are found in both the job description for Secretary III and for Executive Secretary - Superintendent's Office/Certification Officer. The only duties listed on the Executive Secretary - Superintendent's Office/Certification Officer which she performs which are not also listed on the Secretary III job description are "[s]ets up and types materials, reports and similar presentations, usually in prescribed form, but with some individual judgment," and "[c]omposes and types routine

letters." Her administrative duties consist of assisting in scheduling curricular and extracurricular trips using the rotation list, collecting time sheets and assisting in billing for extracurricular trips, assisting in completion of accident reports, scheduling buses and drivers for extracurricular activities and for certification classes, and preparing reports for the State Department of Education as required.

8. Grievant Himes processes bus operators' trip reports, calculating their hours for the trip, their wages based on the number of hours, and their retirement and social security withholding. During the 1997-98 school year, through the date of the Level II hearing on May 6, she had processed 469 trips.

9. The job description for Secretary III lists 11 numbered responsibilities, including "[c]omputes statistical information as needed," and "[a]ssembles and submits relevant data from files." The job goal of the Secretary III is "[t]o assist the assigned administrators in secretarial tasks relevant to the operation of a department or program." 10. RBOE does not have a job description for Accountant I. The Accountant III job description lists a number of duties, including computing applicable salary amounts for all employees, and verifying and maintaining attendance reports for all schools within the county. Grievant Himes does this for bus operators and mechanics. The Accountant III job description lists as a requirement a Bachelor's degree in Accounting. Grievant Himes does not hold a Bachelor's degree in Accounting.

11. All Accountant III's employed by RBOE are employed in the Finance Department, and are required to manage or supervise accounts payable or payroll functions.

12. The Accountant I class title is in a lower pay grade than the Secretary III class title.

Discussion

The burden of proof is upon the grievant to establish, by a preponderance of the evidence, that her duties more closely match those of another W. Va. Code § 18A-4-8 class title than that under which her position is categorized. Pierantozzi v. Brooke County Bd. of Educ., Docket No. 96-05-061 (May 31, 1996); Porter v. Hancock County Bd. of Educ., Docket No. 95-15-493 (May 24, 1994); Hatfield v. Mingo County Bd. of Educ., Docket No. 91-29-077 (Apr. 15, 1991). Grievant Himes is seeking multiclassification as a Secretary III/Accountant I or III. "`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, by the same

standard, that his duties encompass those of all Code §18A-4-8positions identified." Kinstler v. Raleigh County Bd. of Educ., Docket No. 92-41-468 (June 23, 1993).

"[S]imply being required to undertake some responsibilities normally associated with a higher classification, even regularly, does not render a grievant misclassified, per se." Midkiff v. Lincoln County Bd. of Educ., Docket No. 95-22-262 (Mar. 19, 1996), citing Hamilton v. Mingo County Bd. of Educ., Docket No. 91-29-077 (Apr. 15, 1991).

> W. Va. Code §18A-4-8 requires county boards of education to "review each service personnel employee's job classification annually and . . . reclassify all service employees as required by such job classifications." A board of education is obligated to classify school service personnel according to the duties performed by said employees. Taflan v. Hancock County Bd. of Educ., Docket No. 15-86-099-2 (Jan. 12, 1987). Service workers cannot be assigned to perform duties not contemplated by the statutory description of their currently-held classifications or not stated in their official job descriptions. See Britton v. Preston County Bd. of Educ., Docket No. 90-39-015 (Aug. 31, 1990).
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> In addition, the multi-classification of service employees as described in Code §18A-4-8 is sometimes necessary for the efficient operation of the schools. Roberts v. Wyoming County Bd. of Educ., Docket No. 55-86-322-4 (Apr. 3, 1987); Sizemore v. Wyoming County Bd. of Educ., Docket No. 55- 86-310-4 (Apr. 20, 1987). However, the statutes are silent about what portion of time a worker must spend on an out-of-class task in order to deserve reclassification and/or multi-classification. The Grievance Board has provided guidance on these matters.
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> 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).

White v. Randolph County Bd. of Educ., Docket No. 94-42-033 (Aug. 15, 1994) (footnote omitted). W. Va. Code § 18A-4-8 establishes an employment term and class titles for service personnel. It defines each listed class title. The definitions of the class titles at issue are as follows:

> "Secretary III" means personnel assigned to the county board of education office administrators in charge of various instructional, maintenance, transportation, food services, operations and health departments, federal programs or departments with particular responsibilities of purchasing and financial control or any personnel who have served in a position which meets the definition of "Secretary II" or "Secretary III" herein for eight years.

> "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 clerical tasks, 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.
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> "Executive secretary" means personnel employed as the county school superintendent's secretary or as a secretary who is assigned to a position characterized by significant administrative duties.
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> "Accountant I" means personnel employed to maintain payroll records and reports and perform one or more operations relating to a phase of the total payroll.
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> "Accountant III" means personnel who are employed in the county board of education office to manage and supervise accounts payable and/or payroll procedures.

"County boards of education may expand upon the W.Va. Code §18A-4-8 classification definitions in a manner which is consistent with those definitions. Brewer v. Mercer Co. Bd. of Educ., Docket No. 91-27-002 (March 30, 1992)." Pope and Stanley v. Mingo County Bd. of Educ., Docket No. 91-29-068 (July 31, 1992).

In determining whether Grievants should be classified as Executive Secretaries, the key inquiry is whether their positions are characterized by "significant administrativeduties." In applying this standard, this Grievance Board has looked at whether the grievant exercises independent judgment and is solely responsible for the completion of tasks or projects. Midkiff v. Lincoln County Bd. of Educ., Docket No. 95-22-262 (Mar. 19, 1996); Ziler v. Berkeley County Bd. of Educ., Docket No. 02-88-221 (June 30, 1989). Gathering and compiling information, which both Grievants seem to do a lot of, does not require the exercise of independent judgment. Ziler.

Nothing in Grievant Himes' testimony indicates that she exercises independent judgment in the completion of her duties. She follows standard procedures to complete her assigned duties.

Likewise, Grievant Beahm follows standard procedures in executing many of her duties. She exercises some independent judgment in carrying out a few duties, and at times when her supervisor

is absent. Her job, however, is not "characterized by significant administrative duties." The fact that Margaret Gutshall was in the past classified as an Executive Secretary does not prove Grievant Beahm is misclassified. It is possible that Ms. Gutshall was not properly classified.

Grievant Himes clearly is not performing the duties of an Accountant III when she calculates wages and withholdings on bus operators extracurricular trips. An accounting degree is not necessary in order to be able to perform this calculation, and she is not managing or supervising payroll procedures, but is the person performing a portion of the payroll procedures. She is, however, performing an operation relating to a phase of payroll, for an entire group of employees, as is described in the Accountant I class title, and performs this duty repeatedly during the school year. Over an 8 month period she performed this duty for 469 trips - about 58 times a month. This is not an insignificant oroccasional duty, and nothing in the record indicates that calculating payroll is a duty of a Secretary III. Grievant Himes has proven she should be multiclassified as a Secretary III/Accountant I.

The following Conclusions of Law support the Decision reached.

Conclusions of Law

1. Grievants do not exercise independent judgment, and their positions are not characterized by significant administrative duties. Grievants' duties do not fit better within the definition of an Executive Secretary, as defined in W. Va. Code § 18A-4-8.

2. The Accountant I class title is a better fit for Grievant Himes' payroll duties than Secretary III.

Accordingly, this grievance is **GRANTED IN PART, AND DENIED IN PART**. Respondent, Randolph County Board of Education is **ORDERED** to reclassify Grievant Himes as a Secretary III/Accountant I, effective July 1, 1997, and to adjust her seniority in the class title to reflect this change. As the Accountant I class title is, by statute (W. Va. Code § 18A-4-8a), in a lower pay grade than the Secretary III, Grievant Himes is entitled to no backpay.

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

BRENDA L. GOULD

Administrative Law Judge

Dated: January 7, 1999

Footnote: 1

Grievants did not indicate how this Code Section was violated.

Footnote: 2

Grievant Beahm's supervisor referred the grievance to Level II, and Grievant Himes' supervisor responded that he was without authority to resolve the grievance. The grievances were consolidated at Level II, and a hearing was held on May 6, 1998. A decision was issued denying the grievance on June 30, 1998. Grievants waived Level III in accordance with W. Va. Code § 18-29-4(c), and appealed to Level IV on July 7, 1998. After this matter was set for hearing, the parties agreed to submit this case at Level IV on the record developed at Level II, and this matter became mature for decision uponnotification of this on September 15, 1998. Grievants were represented by Mary Linn, and Respondent was represented by Basil Legg, Esquire. The parties did not submit written argument. This matter was transferred to the undersigned Administrative Law Judge for administrative reasons on December 11, 1998.