ELAINE GRUGIN,

Grievant,

v. **Docket No. 02-24-244**

MARION COUNTY BOARD OF EDUCATION,

Respondent.

DECISION

Elaine Grugin ("Grievant") initiated this proceeding on March 25, 2002, alleging she should not be assigned the responsibility of changing light bulbs in the auditorium at North Marion High School. The grievance was denied at level one on April 9, 2002. After appeal to level two, a hearing was held on July 25, 2002, followed by a decision denying the grievance dated August 6, 2002. Level three consideration was bypassed, and Grievant appealed to level four on August 12, 2002. A hearing was held in the Grievance Board's office in Westover, West Virginia, on October 15, 2002. Grievant was represented by counsel, John E. Roush, and Respondent was represented by counsel, Stephen R. Brooks. This matter became mature for consideration upon receipt of the parties' fact/law proposals on November 18, 2002.

The following findings of fact are made based upon a preponderance of the evidence of record.

Findings of Fact

1. Grievant is regularly employed by the Marion County Board of Education ("MCBOE") as Custodian I/II and is assigned to North Marion High School ("NMHS").

2. Since beginning her assignment at NMHS in early 2001, she has beenresponsible for cleaning the auditorium. However, the light bulbs in the auditorium were changed by another employee. (See footnote 1)

3. Beginning in March of 2002, Grievant was instructed by her supervisor to assume responsibility for changing the light bulbs in the auditorium as part of her regular duties.

4. The auditorium at NMHS has a very high ceiling, and changing the light bulbs requires use of an extender pole device, making changing of the bulbs somewhat difficult and time consuming.

Discussion

As this grievance does not involve a disciplinary matter, Grievant has the burden of proving her claims by a preponderance of the evidence. Procedural Rules of the W. Va. Educ. & State Employees Grievance Bd. 156 C.S.R. 1 § 4.21 (2000); Holly v. Logan County Bd. of Educ., Docket No. 96-23-174 (Apr. 30, 1997); Hanshaw v. McDowell County Bd. of Educ., Docket No. 33-88-130 (Aug. 19, 1988). See W. Va. Code § 18-29-6.

Grievant contends that changing of the light bulbs in the auditorium was not part of the duties originally assigned to her position, and she further argues that this responsibility is beyond the parameters of her job classification. The class titles for service personnel positions are defined by W. Va. Code § 18A-4-8. “Custodian Is” are employees whose responsibility is to “keep buildings clean and free of refuse”, and “Custodian IIs” are “employed as a watchman or groundsman.” In turn, a “Watchman” is defined as someone “employed to protect school property against damage or theft”, and “Groundsmen” refersto “personnel employed to perform duties that relate to the appearance, repair and general care of school grounds.” The definitions for both Watchman and Groundsmen include “routine cleaning duties.”

Respondent argues that changing of light bulbs is encompassed by Grievant's job classification and job description, and the undersigned agrees. Although Grievant contends that this activity constitutes “repair” work, which is not part of the responsibilities contemplated by her job classes, she ignores the fact that the “Groundsman” definition specifically includes repair work on school grounds. The definitions for Custodian I and Custodian II clearly do not limit the activities of these employees to merely cleaning duties, as Grievant alleges.

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). However, “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). MCBOE's job description for Custodian I/II includes “perform[s] necessary repairs/replacements as assigned”, which is consistent with the statutory definitions discussed above. Grievant's responsibilities are consistent with the statutory classification definition and county job description for her job title.

The following conclusions of law support the decision reached.

Conclusions of Law

1. In a non-disciplinary matter, Grievant has the burden of proving her claims by a preponderance of the evidence. Procedural Rules of the W. Va. Educ. & State Employees Grievance Bd. 156 C.S.R. 1 § 4.21 (2000); Holly v. Logan County Bd. of Educ., Docket No. 96-23-174 (Apr. 30, 1997); Hanshaw v. McDowell County Bd. of Educ., Docket No. 33-88-130 (Aug. 19, 1988). See W. Va. Code § 18-29-6.

2. 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).

3. Grievant's responsibility for changing light bulbs is consistent with the duties assigned to her job classification of Custodian I/II.

Accordingly, this grievance is **DENIED**.

Any party may appeal this Decision to the Circuit Court of Kanawha County or the Circuit Court of Marion 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. However, the appealing party is required by W. Va. Code § 29A-5-4(b) to serve a copy of the appeal petition upon the Grievance Board. The appealing party must also provide the Board with the civil action number so that the record can be prepared and properly transmitted to the appropriate circuit court.

Date: December 4, 2002 _____

DENISE M. SPATAFORE

Administrative Law Judge

Footnote: 1

This employee's classification is not clear from the record.