

**FILED**

**July 20, 2000**

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SUPREME COURT OF APPEALS  
OF WEST VIRGINIA

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Starcher, J., dissenting:

This *per curiam* opinion is most decidedly *not* authority for anyone to conclude that the previous practice (pre-1990) of awarding up to a year's seniority for "substitutes" who worked 133 days or more in a year's teaching employment is in conflict with the then-applicable law.

A settled line of cases before the State Employee Grievance Board, a state superintendent's interpretation, and this Court's decision in *Harkins v. Ohio County Board of Education*, 179 W.Va. 373, 369 S.E.2d 224 (1988) (*per curiam*) dictates this conclusion, as does a review of the applicable statutory language.

On remand, the Administrative Law Judge should *follow the law*, not *dicta* in a *per curiam* footnote. Then the Administrative Law Judge's analysis may be tested in an appeal of the issue, if a party challenges it. Meanwhile, no one should presume to interfere with the hard-earned seniority of our state's full-time teachers -- whether they are called "substitutes" or otherwise.