

No. 25898, *Harold F. Flint, Jr., et al. v. Board of Education of the County of Harrison*

McGraw, J., concurring in part, and dissenting in part:

FILED

June 28, 2000

DEBORAH L. McHENRY, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

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While I concur with the majority as to the result reached concerning the two employees who are not multiclassified, I dissent from the Court's failure to permit the remaining seven employees to obtain similar relief. Under the rigid analysis employed by the majority, it is quite possible that the uniformity requirement of W. Va. Code § 18A-4-5b will soon become a nullity, since school boards are now free to evade this policy by simply expanding the number of employees subject to multiclassification. Given this very real threat, the Court should adopt a more liberal measure of comparison to determine whether employees are similarly situated for purposes of § 18A-4-5b. Because the Court has failed to do this in the present case, I respectfully dissent.