employes, for one reason or another, failed to pay Mr. Kobeski the $12,960.00 salary he was entitled to receive. In that situation, the $11,000.00 salary for the 1969-70 school year could not become effective until the School Board rendered its decision in June of 1971.

However, after an exhausting review of inadequate minutes of School Board meetings that are part of the record in this appeal, and a review of the arguments at the hearings in the Department of Education, we find that the School Board did not intend to adopt a ratio formula that applied to the elementary supervisor, but instead chose to set his salary by independent Board action; and that the Board set his salary for the 1968-69 school year at $10,800.00. In support of this last finding, we note that the minutes of the May 20, 1968 Board meeting included in the Board's budget for the 1968-69 school year provision for the salary of one "supervisor" at $10,400.00. That meeting, it is noted, occurred just one month after the April 15, 1968 meeting, when the minutes first included provision for a ratio formula. If the School Board had intended to apply the ratio formula to the elementary supervisor, they would have reflected their intentions in the salary provisions of the budget. The additional $400.00 apparently came from the Board's decision of its June 10, 1968 meeting to divide $1,500.00 among the principals.

The Lackawanna Trail School Board's methods of keeping its minutes and setting salaries for its employes, as reflected in the record in this case, are very poor. Section 508 of the Public School Code requires the Board to set salaries by a majority vote of the Board, duly recorded. The record in this case indicates that salary decisions for administrators were not properly recorded, that they were frequently made on an ad hoc basis, by indirection, or possibly even by accident.

We find the Board's adoption of salary schedules that pay supervisors of teachers, like Mr. Kobeski, a lower salary for working a longer school year than they would receive had they remained teachers to be improper and contrary to the intent of the School Code. Policies of this nature are self-defeating since they discourage those teachers with the most experience from accepting supervisory positions. However, since salaries in excess of the statutory minimums are within the Board's discretion, we can only comment on what we see to be an injustice. It should be noted that Mr. Kobeski appears to be performing the duties of a principal, and, if so, he may not have been paid in accordance with the statutory minimum.

Accordingly, we make the following

ORDER

AND NOW, this 26th day of July, 1973, the Appeal of Leonard J. Kobeski from the decision of the Board of School Directors of the Lackawanna Trail School District rejecting his claim of demotion is hereby dismissed and the decision of the School Board is sustained.

* * * *

Appeal of James Morandini, a Professional Employe, from a decision of the Board of School Directors of the Kiski Area School District, Westmoreland County, Pennsylvania

In the Office of the Secretary of Education, Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania

No. 202

OPINION

John C. Pittenger
Secretary of Education

James Morandini, Appellant herein, has appealed from a decision of the Board of School Directors of the Kiski Area School District, Westmoreland County, Pennsylvania, terminating his contract and dismissing him as a professional employe.

FINDINGS OF FACT

1. Appellant was employed by the Kiski Area School District under a professional employe contract dated July 15, 1969, and has been teaching in said district since 1966 to the end of the 1970-71 school year.
2. His employment, under said contract, was as a teacher of science and social studies.
3. On June 21, 1971, the Appellant was notified of a charge of incompetency against him.
4. Notice of a hearing thereunder, scheduled for July 12, 1971, was given to the Appellant.
5. At the hearings, testimony was presented by the Assistant Superintendent and the school principal in substantiation of the charge of incompetency and the resultant issuance of unsatisfactory ratings in February and June, 1971.
6. Following said hearing, and further hearing held on August 25, 1971, the Board of School Directors of the Kiski Area School District voted to sustain the said charge of incompetency and dismissed the Appellant as a professional employe of the School District.
7. On August 27, 1971, due notice of said dismissal was sent to the Appellant.
8. On September 17, 1971, the Appellant filed his appeal from said dismissal with the Secretary of Education.

TESTIMONY

Testimony in the above case was presented at the hearings before the School Board on July 12, 1971 and August 25, 1971 substantially as follows:

Jack D. Shearer, Assistant Superintendent of the Kiski Area School System, sent a letter to the Appellant on June 21, 1971 concerning charges for a proposed dismissal of the teacher. During 1966, 1967 and 1968, the Appellant was a junior high school teacher and received satisfactory ratings, although there was a need for improvement. This was discussed with the Appellant and finally he was transferred to another school in the district. The Board had a system of rating based on an 80 point maximum. The Appellant's rating declined from a 43 1/2 point rating in 1968 to a low of 14 in 1971. Observation of his teaching indicated inability to plan, organize, teach and observe basic rules of conduct. He also cited instances occurring in 1970-71 substantiating the conclusions above mentioned. Unsatisfactory ratings were issued against the Appellant on Feburary 10, 1971 and June 7, 1971 and said ratings were approved by the District Superintendent. He also stated that the Appellant's beard had no relationship to his competency as a teacher.

Samuel Paoli, school principal and immediate supervisor of the Appellant, agreed, by stipulation, that his testimony would corroborate Mr. Shearer's statements. The Appellant was removed from his classroom for one week because of his beard, but the beard was not relevant to the teacher's ability to teach.

No testimony was presented at the hearings either on behalf of or by the Appellant.

DISCUSSION

The appeal in this case results from the discharge of the Appellant as a professional employe by the Kiski Area School District on the ground of incompetency.

A hearing on this appeal was originally scheduled for October 18, 1971, and continued by agreement of counsel until January 11, 1972, on which date said hearing was finally held.

Pursuant to the provisions of the Public School Code of 1949, as amended, hearings were held before the local School Board on July 12, 1971 and August 25, 1971. The evidence introduced in support of the charge of incompetency, in 1970-71, indicated that unsatisfactory ratings were issued on February 10, 1971 and June 7, 1971; that the district rating system was based on a point system with a maximum of 80. The Appellant's rating, based on this method, dropped from a high of 43 1/2 in 1968 to 14 in 1971. There is ample evidence in the record to substantiate the opinions of the administrators that the Appellant indicated an inability to plan, organize and teach. The evidence referred to as the basis of determination is the testimony during the

1970-71 school year. Although the School Board permitted testimony as to the Appellant's service in years prior thereto, when satisfactory ratings were given, we are not basing our conclusions on such testimony.

The Appellant has argued that his appearance, wearing a beard in September 1970, gave rise to a reaction by the administration that caused his eventual discharge. Counsel for the Appellant, in his cross-examination at the School Board hearings, raised this issue, but was unable to get answers that could pinpoint the existence of the beard as the reason and cause of dismissal. At the appeal hearing, counsel stated that it could not be proven one hundred percent, but circumstantially it could be inferred. We did not have the benefit of any of Appellant's testimony that might have indicated such a reaction, either by direct proof or even by circumstantial evidence.

The counsel for Appellant further raised the question of the vote by the Board on the discharge. The record indicates that on August 25, 1971, after the conclusion of the hearing, the Board met and, on roll call vote of the entire Board, they unanimously voted in favor of dismissal. This was in compliance with the provisions of Section 1149 of the Public School Code of 1949.

The School Board sustained the charge of incompetency on the basis of the evidence presented. They are the trier of facts, and it is within their province to determine the question of credibility of the witnesses and the competency and weight to be accorded their testimony. On appeal we are bound by their conclusions unless we find them to be manifestly erroneous, arbitrary or capricious.

Comm. ex rel. Harvey vs. Eastridge, 374 Pa. 172

Wilbert vs. Pittsburgh Con. Coal Co., 385 Pa. 149

We have reviewed the notes of testimony, and heard oral argument of counsel at the hearing on appeal, and it is our opinion that the decision of the School Board of dismissal on the charge of incompetency as a basis for discharge indicates no abuse of discretion.

Accordingly, we make the following

ORDER

AND NOW, to wit, this 30th day of March, 1972, the Appeal of James Morandini from the decision of the Board of School Directors of the Kiski Area School District is hereby dismissed, and the action of the Board of School Directors dismissing him as a professional employe on the ground of incompetency is hereby sustained.

* * *

Appeal of Eva Gregart, a Professional Employe, from a decision of the Board of School Directors of the Center Area School District, Beaver County, Pennsylvania

In the Office of the Secretary of Education, Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania

No. 204

OPINION

John C. Pittenger
Secretary of Education

Eva Gregart, Appellant herein, has appealed from a decision of the Board of School Directors of the Center Area School District, Beaver County, Pennsylvania, terminating her contract and dismissing her as a professional employe.

FINDINGS OF FACT

1. Appellant has been employed by the Center Area School District (formerly Center Township) as a professional employe since July 28, 1967.