

STATE BOARD OF EDUCATION

STATE OF GEORGIA

J. C. POSTELL, :
Appellant, :
v. : CASE NO. 1982-20
BIBB COUNTY BOARD :
OF EDUCATION :
Appellee. :

O R D E R

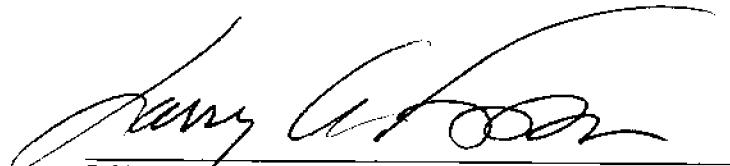
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

DETERMINES AND ORDERS, that the Findings of Fact and Conclusions of Law of the Hearing Officer are made the Findings of Fact and Conclusions of Law of the State Board of Education and by reference are incorporated herein, and

DETERMINES AND ORDERS, that the decision of the Bibb County Board of Education herein appealed from is hereby sustained.

Mr. Temples and Mrs. Huseman were not present.

This 13th day of January, 1983.


LARRY A. FOSTER, SR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION
STATE OF GEORGIA

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| J. C. POSTELL, | : | |
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| Appellant, | : | CASE NO. 1982-20 |
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| vs. | : | |
| | : | |
| BIBB COUNTY BOARD OF | : | REPORT OF |
| EDUCATION, | : | HEARING OFFICER |
| | : | |
| Appellee. | : | |

PART I

SUMMARY OF APPEAL

This is an appeal by J. C. Postell (hereinafter "Appellant") from a decision by the Bibb County Board of Education (hereinafter "Local Board") not to assign Appellant a counselor position which became available after his former position was eliminated following a federal funding cut. The basis for Appellant's appeal is that he was not treated fairly because the same policies were not applied to other personnel. The Hearing Officer recommends that the Local Board's decision be sustained.

PART II

FINDINGS OF FACT

Appellant has been employed by the Local Board for twenty-four years. During the 1981-1982 school year, federal funding was lost for the position he held and he became a displaced employee. A vacancy arose in a counseling position at the McEvoy "A" Building, Southwest High School Complex, and Appellant applied for the position. The vacancy was advertised and several

applications were received. A personnel committee of the Local Board interviewed and rated all of the applicants and Appellant was not one of the top-rated applicants. The Local Superintendent recommended the top-rated applicant for the position and the Local Board adopted the recommendation.

During the period the counselor position was available, a principal position and an assistant principal position also became available. Appellant also made application for both of these positions, but he was not considered to be among the top-ranked applicants for either position. The Local Superintendent recommended the top-rated applicant for the assistant principal position. For the principal position, the Local Superintendent recommended a displaced employee who had not applied for the position. The Local Board adopted the recommendations for both positions.

The Local Board did not have any clearly established policies or methods for staffing positions that became available or for assigning new positions to displaced employees. In some instances, a "transitioning" process was used. In the transition process, the employee with the greatest length of service was assigned to a vacant position. If this process had been used in selecting the counselor, Appellant would have been selected. In other instances, the Local Superintendent made a recommendation without necessarily taking into consideration the length of service of any displaced employees. Vacant positions were also advertised and a selection was made from the

qualified applicants. The Local Superintendent's recommendation has been the principal factor used in making employee assignments.

Appellant appeared before the personnel committee of the Local Board and urged the committee to use the transitioning method and assign the counselor position to him. The personnel committee did not make a recommendation to the Local Board and the question was submitted to the whole Local Board. On August 19, 1982, Appellant and his attorney appeared before the Local Board and requested the Local Board to assign the counselor position to Appellant. The Local Board, however, decided to follow the recommendation of the Local Superintendent, and assigned the position to the top-rated applicant. Appellant submitted his appeal from the decision on September 17, 1982.

PART III

CONCLUSIONS OF LAW

Appellant appealed the decision of the Local Board on the grounds it was arbitrary and capricious. He argues that the employees have a right to know the methods used in selecting personnel for the various positions and that a consistent policy should be used.

The Local Board argues that the matter is an administrative matter and the State Board of Education should not interfere with the internal affairs of the Local Board. Since the matter is administrative, the Local Board's discretion is controlling.

The control and management of local schools is vested in the local board of education. The methods or processes used by a local board of education in selecting, assigning, and re-assigning its employees are not controlled by statute or by the State Board of Education. A local board of education has the power and authority to adopt, or not adopt, any method of selection it desires. If the method or methods chosen are not discriminatory, the entire discretion rests with the local board of education. The State Board and the courts will not inquire into such decisions unless they are illegal or arbitrary and capricious and constitute an abuse of discretion.

In the instant case, the Hearing Officer concludes that there has not been an abuse of discretion. The lack of defined policies and reliance on the recommendations of the Local Superintendent does not constitute an abuse of discretion. The fact that two different methods were used to select the principal and the counselor does not constitute discrimination or unequal treatment directed towards Appellant. Since the Local Board has not adopted specific policies and procedures, and has used differing methods in the past, the Local Board has not taken any action inconsistent with its past practices so that Appellant has been singled out.

PART IV

RECOMMENDATION

Based upon the foregoing findings and conclusions, the record submitted, and the briefs and arguments of counsel, the

Hearing Officer is of the opinion that the decision of the Local Board was not arbitrary and capricious and did not constitute an abuse of discretion. The Hearing Officer, therefore, recommends that the decision of the Local Board be affirmed.

(Appearances: For Appellant - Lawton Miller, Jr.; For Local Board - Jones, Cork & Miller; W. Warren Plowden, Jr.)

L. O. Buckland

L. O. BUCKLAND
Hearing Officer