

STATE BOARD OF EDUCATION

STATE OF GEORGIA

LARRY GREENE,)	
)	
Appellant,)	
)	SBE CASE NO. 1985-20
v.)	
)	
CLARKE COUNTY BOARD)	
OF EDUCATION,)	
)	REPORT OF STATE
Appellee.)	HEARING OFFICER

PART I

SUMMARY OF APPEAL

This is an appeal from a decision of the Clarke County Board of Education (hereinafter "Local Board") not to renew the teaching contract of Larry Greene (hereinafter "Appellant") as a result of a reduction in force and cancellation of programs. Appellant contends that the Local Board failed to follow their own policy and that Appellant was nonrenewed, not as a result of a reduction in force, but due to a decision to eliminate teachers who do not have higher levels of certification. The Local Board contends that the reduction in force policy allows the Local Superintendent to consider teachers' qualifications in deciding who to release and who to retain. The Hearing Officer recommends the decision of the Local Board be sustained.

PART II

FACTUAL BACKGROUND

Appellant was a teacher with seven years' experience with the Local Board. He has a V-2 certificate in construction and

a V-1 certificate in transportation. He has work experience in both of those fields. During the 1984-85 school year, Appellant taught in the auto-transportation program at one of the Local System's high schools. The auto-transportation program Appellant taught was cancelled and will not be taught in the 1985-86 school year due to a decision by the Local Board that the enrollment did not warrant its continuation.

Appellant was notified on April 15, 1985 that he would not be renewed as a result of the cancellation of programs and implementation of the Local Board's Reduction-In-Force Policy. The Local Board's Reduction-In-Force Policy provides, in pertinent part:

By using a personnel list ordered by length of continuous service in the Clarke County School District, the Superintendent will notify, prior to April 15, the individuals who at that time may be dismissed. As the continuous services list is imposed as the primary basis for reducing the districts staff, qualifications and current certification for a position will be a carefully scrutinized variable.

Appellant subsequently requested a hearing concerning the non-renewal which was held on May 15, 1985. At the hearing, evidence was presented that Appellant had more experience teaching with the Local Board than did eight other teachers in the vocational areas. However, each of those eight teachers had certification which was of a higher level and had certification which would enable them to teach courses which Appellant could not teach. At the end of the hearing, the Local Board decided to non-renew Appellant's contract. Appellant now requests the State Board of Education reverse that decision.

PART III

DISCUSSION

Appellant contends, first, on appeal that the Local Board failed to follow its own guidelines in implementing its Reduction-In-Force Policy. Appellant contends that, because the policy states the continuing service list is the primary basis for reducing staff, he should have been able to bump teachers who had less service and who were teaching in areas in which he was certified to teach. For example, a teacher was retained who had only one year of experience and who was teaching construction and another was retained who had only four months' experience and who was teaching automobile transportation. Appellant argues that, because he was certified to teach those subjects and because he had a longer period of service, he should have been retained over those teachers.

Appellant's argument does not take into account the statement in the policy that qualifications and current certification will be a carefully scrutinized variable. In the policy, the Local Board has left itself the discretion to review the qualifications and certification of the individuals in reaching a decision. In the case of the teacher who had only one year of experience and who was teaching construction, the Board considered the fact that he had a T-5 certificate in Industrial Arts and in addition to teaching construction, was eligible to teach introduction to vocational arts, drafting and design and, in fact, was also teaching instructional computing. In the case of the

other teacher who was teaching auto-transportation, the Board considered the fact that he was teaching in the Area Vocational Technical School in a higher level course and had a Masters degree in trade and industry in addition to experience as a history teacher.

The Local Board is authorized to take into account the superior qualifications and additional certification which would provide the system with more flexibility. In this case, all teachers with less experience were eligible to teach courses Appellant was not certified to teach. Once the Local Board has shown good cause for dismissal based on cancellation of programs, there is nothing to prevent them from dismissing the teacher who is the most limited in terms of qualification and certification. The Local Board is the body best able to interpret its own policy and there is nothing arbitrary and capricious about its interpretation in this instance.

Appellant's second contention is that the nonrenewal was not due to a reduction-in-force, but rather due to a policy of the Local Board to eliminate teachers who did not have higher levels of certification. Appellant's argument is that a policy of eliminating teachers without higher level certificates can be inferred because Appellant had been bumped by another teacher into the automobile transportation program from the construction program the previous year when the system knew it might eliminate the automobile transportation program. There is no evidence that the inference desired by the Appellant is, in fact, true.

Indeed, there is ample evidence that the Local Board determined that the automobile transportation program at Appellant's school needed to be discontinued and that Appellant was the teacher the system had the least need for based upon certification and qualification. Appellant desires that the Local Board be bound by a strict seniority policy. Based upon the discussion of Appellant's first argument, the Hearing Officer is of the opinion that the Local Board is not bound by a strict seniority policy.

PART IV

DISCUSSION

Based upon the foregoing, the record submitted, and the briefs and arguments of counsel, the Hearing Officer is of the opinion there is evidence that a cancellation of programs occurred and that that was the reason for Appellant's dismissal. Additionally, there was no showing that the action of the Local Board was arbitrary and capricious. The Hearing Officer, therefore, recommends that the decision of the Local Board be

SUSTAINED.



L. O. BUCKLAND
State Hearing Officer