

**STATE BOARD OF EDUCATION**  
**STATE OF GEORGIA**

<b>RUSSELL CURRY,</b>	:	
	:	
<b>Appellant</b>	:	
	:	<b>CASE NO. 1991-7</b>
<b>vs.</b>	:	
	:	<b>DECISION</b>
<b>DAWSON COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	

The Superintendent of the Dawson County School System (“Local Superintendent”) sent a notice of dismissal to Russell Curry (“Appellant”) on June 12, 1990. Appellant held the position of Director of Support Services. During the 1989-1990 school year, he was paid a salary of \$47,960.76 and he was to be paid \$51,608.64 during the 1990- 1991 school year. On May 23, 1990, the Dawson County School Board (“Local Board”) voted to eliminate the position of Director of Support Services because the Local Board was operating in a deficit condition. The notice to Appellant stated that he was being dismissed because of a reduction in force and for other good and sufficient reasons. Appellant was granted a hearing before the Local Board on October 5, 1990. The Local Board decided to uphold the dismissal and this appeal followed.

O.C.G.A. § § 20-2-940 and 20-2-943 provide that a local board can dismiss a teacher “[t]o reduce staff due to loss of students or cancellation of programs.” Appellant maintains on appeal to the State Board of Education that the dismissal was improper because no programs were eliminated and the Local Board cannot dismiss him simply because of its desire to economize. He argues that the elimination of a position does not amount to the cancellation of a program. The Local Board argues that the elimination of a position is the elimination of a program because the words “program” and “position” are interchangeable terms. The Local

Board argues that the program of administering support services through a central office administrative position was abolished, thus permitting Appellant's dismissal. The Local Board cites Raines v. Habersham Cnty. Bd. of Educ., Case No. 1977-15 (St. Ed. of Ed., 12/8/77), to support its position. In Raines, the State Board of Education upheld a local board's decision to demote a teacher because of a reduction in force due to the loss of students or cancellation of programs when the local board decided to abolish the position of Countywide Music Coordinator. The case, however, only addressed the issue of whether the teacher was provided proper notice to satisfy due process. The case is, however, instructive because it shows that local boards of education have considered the elimination of a position to be the equivalent to the elimination of a program. We agree with the Local Board's view of the word "*programs*". The word "programs" is not a term of art. Webster's Ninth New Collegiate Dictionary has two relevant definitions of program: "3. a plan or system under which action may be taken toward a goal", and "4. Curriculum". Curriculum is defined as "the courses offered by an educational institution." Appellant would ask us to adopt the second definition. Under this definition, however, a local board of education would be placed in the position of having to maintain a particular position forever once the position was created. Local boards of education would be unable to experiment and determine the most efficient form of administration. We believe that "programs" in O.C.G.A. § 20-2-940(a) (6) refers to a plan or system used to perform a given task. In the instant case, that means the program of administering the support Staff through a single administrative position, which the Local Board has chosen to eliminate.

Contrary to Appellant's argument that a position cannot be eliminated in order to economize, the underlying purpose of being able to terminate teachers due to the loss of students or cancellation of programs is to economize. The provision recognizes that if there has been a loss of students or programs have changed, then it is unnecessary for a local board to continue the employment of some of the teachers.

Appellant also argues that there were other administrative positions available that he could have been moved into by the Local Board. Regardless of the merits of moving teachers and administrative personnel into other available positions, the Local Board had the authority under O.CPG.A. § 20-2-943(a) to terminate Appellant's contract. Although Appellant argues that the Local Board did not save any money by eliminating his position, the question on appeal is whether the Local Board should have terminated Appellant's contract, not whether his position should have been eliminated. The position was eliminated by the Local Board on May 23, 1990 and there was no appeal taken from the decision. Since the position had previously been eliminated, it does not appear that the Local Board's decision to terminate Appellant was arbitrary and capricious since Appellant's services were no longer needed.

Based upon the foregoing, the State Board of Education concludes that the Local Board had the authority to terminate Appellant's contract. The Local Board's decision, therefore, is hereby

SUSTAINED.

This 11<sup>th</sup> day of April, 1991.

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Mr. Blanchard, Mr. Carrell and Mr. Sears were not present

Larry A. Foster  
Vice Chairman For Appeals