

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>MARY O. JONES,</b>	:	
	:	
<b>Appellant,</b>	:	
v.	:	<b>CASE NO. 1991-33</b>
	:	
<b>GILMER COUNTY</b>	:	<b>DECISION</b>
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	

This is an appeal by Mary O. Jones (“Appellant”) from a decision by the Gilmer County Board of Education (“Local Board”) that upheld her assignment from the position of reading coordinator to classroom teacher. We uphold the Local Board’s decision.

The Local Board became concerned about the school budget before the 1990-1991 school year. The Local Board told the Local Superintendent to maintain school operating costs so they would not have to vote for a tax increase. The Local Superintendent prepared a plan that included the elimination of a locally-funded reading development program the school system had started during the 1987-1988 school year. Elimination of the program included elimination of the position of reading coordinator that Appellant held.

On February 6, 1991, the Local Superintendent wrote to Appellant and told her that her position as reading coordinator would be eliminated for the 1991-1992 school year. He suggested that she should meet with another school official to discuss assignment to another position. Before April 15, 1991, the Local Board offered Appellant a contract as a classroom teacher. Appellant accepted the contract.

On July 3, 1991, Appellant filed a demand for reinstatement to the position of reading coordinator on the grounds she was demoted without a hearing. Shortly thereafter, on July 10, 1991, the Local Board adopted a budget that did not include any funding for the reading program or for the position of reading coordinator. The Local Superintendent entered into negotiations with Appellant and agreed to pay her at the same rate of pay she received during the 1990-1991 school year as the reading coordinator. The Local Superintendent, however, also informed Appellant that her salary would be reduced at the end of the school year to what she was entitled to as a classroom teacher with her certification and experience. Appellant requested a hearing before the Local Board.

During the hearing before the Local Board, Appellant argued that she should be reinstated in her position as reading coordinator because she had not been given a hearing on her

demotion. Additionally, Appellant claimed that the Local Board had not taken any formal action to abolish her position so she should remain in the position. After the hearing, the Local Board voted that Appellant had not been demoted, but if she was demoted, then there was cause for her demotion, and that Appellant was not entitled to a comparable administrative position. Appellant then appealed to the State Board of Education.

Appellant first claims that the Local Board denied her due process because it demoted her without giving her a hearing. The Local Board counters that Appellant was not demoted because her salary was not reduced and she did not suffer any loss in prestige or responsibility in moving from the position of reading coordinator to classroom teacher.

O.C.G.A. § 20-2-943 allows local systems to demote an employee, provided the local system follows the procedures set out in O.C.G.A. § 20-2-940. One of the requirements of O.C.G.A. § 20-2-940 is that a local board has to notify an employee by certified mail that the demotion will occur. The notice has to include a statement that the employee has the right to a hearing. In addition, the notice has to state the reasons the employee is being demoted. One of the permitted reasons for a demotion is if there has been a reduction in programs. O.C.G.A. § 20-2-940(a)(7). If an employee has not been informed before April 15, then the teacher's contract is deemed renewed for the subsequent year.

Appellant claims that she should be reinstated in her position as reading coordinator because the Local Board did not give her written notice of her demotion before April 15, 1991. A demotion, however, can occur at any time during a school year. Thus, even though the Local Board maintains that Appellant was not demoted, she received written notice before the hearing that stated the reasons for her assignment to the position as a classroom teacher. We thus conclude that the Local Board satisfied the requisites of O.C.G.A. § 20-2-940 in providing Appellant with written notice and in granting her the hearing she requested with full knowledge of the reasons.

At the hearing, there was evidence that the reading program and the position of reading coordinator were eliminated because of the lack of funds. Thus, regardless of the various arguments advanced by both Appellant and the Local Board concerning whether she was demoted, we believe the record shows that Appellant was demoted, but that the Local Board complied with all the requirements of O.C.G.A. § 20-2-940 to demote Appellant. The Fair Dismissal Law is not a tenure statute. An employee, therefore, does not have any rights in a position, or any comparable position, other than that cause must exist for the employee to be demoted or terminated from the position and a local board has to provide notice and a hearing. In this case, there was evidence that cause existed to demote Appellant.

We agree with the Local Board that cause existed to demote Appellant. The Local Board's decision, therefore, is hereby

SUSTAINED.

This 12<sup>th</sup> day of March, 1992

Mr. Brinson was absent.

James H. Blanchard  
Vice Chairman for Appeals