

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>ANDY BLASSINGAME,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>vs.</b>	:	<b>CASE NO. 2003-48</b>
	:	
<b>ATLANTA CITY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	<b>DECISION</b>
	:	

This is an appeal by Andy Blassingame (Appellant) from a decision by the Atlanta City Board of Education (Local Board) that he was not entitled to a hearing on his demotion from an administrative position to a teaching position. The Local Board claims that Appellant had not earned any right to a hearing as an administrator before O.C.G.A. § 20-2-942 was amended to eliminate any right to a hearing for an administrator. The Local Board’s decision is reversed.

The Local Board employed Appellant as a teacher at the beginning of the 1990-1991 school year. Appellant previously worked for the Dougherty County School System from 1981 through the end of the 1989-1990 school year. On March 9, 1993, the Local Board promoted Appellant to an administrative position, which he held through the end of the 2000-2001 school year. On April 13, 2001, Appellant was offered a contract as a teacher, which constituted a demotion for him. The Local Board refused to give Appellant a hearing on why he was demoted, claiming that O.C.G.A. § 20-2-942 did not require a hearing since Appellant had not served as an administrator for more than three years when O.C.G.A. § 20-2-942 was amended in 1995.

Before 1995, O.C.G.A. § 20-2-942 provided that a teacher who was employed for more than three consecutive years had the right to a hearing under the provisions of O.C.G.A. § 20-2-940 before a local board could dismiss them by not renewing their contract. If a teacher acquired the right to a hearing with one local board within the state, then the teacher only had to complete one year of employment with another school system before earning the right to a hearing with a new school system. O.C.G.A. § 20-2-942.

Appellant filed suit in superior court and the court ordered the Local Board to conduct a hearing to determine whether Appellant was entitled to a hearing. The Local Board issued a decision that Appellant was not entitled to a hearing. It is from that decision that Appellant now appeals to the State Board of Education.

Before 1995, the Fair Dismissal Act, O.C.G.A. § 20-2-940 *et seq.* did not differentiate between teachers and administrators. O.C.G.A. § 20-2-942(b) provides, in part:

(b)(1) A teacher who accepts a school year contract for the fourth consecutive school year from the same local board of education may be demoted or the teacher's contract may not be renewed only for those reasons set forth in subsection (a) of Code Section 20-2-940.<sup>1</sup>

(2) In order to demote or fail to renew the contract of a teacher who accepts a school year contract for the fourth or subsequent school year from the same local board of education, the teacher must be given written notice of the intention to demote or not renew the contract of the teacher. .

. .

\* \* \*

(4) A teacher who has satisfied the conditions set forth in paragraph (1) of this subsection who is subsequently employed by another local board of education and who accepts a second consecutive school year contract from the local board at which the teacher is subsequently employed may be demoted or the teacher's contract may not be renewed only for those reasons set forth in subsection (a) of Code Section 20-2-940. The provisions set forth in paragraph (2) of this subsection likewise apply to such a teacher.

In 1995, the Legislature amended O.C.G.A. § 20-2-942 to remove the right of an administrator to have a hearing in case of a demotion or non-renewal of a contract. This was accomplished by adding a definition for a "school administrator" and excepting school administrators from the definition of teachers in O.C.G.A. § 20-2-942(a). Additionally, subpart (c) was added to O.C.G.A. § 20-2-942. This subpart provides:

(c)(1) A person who first becomes a school administrator on or after April 7, 1995, shall not acquire any rights under this Code section to continued employment with respect to any position of school administrator. A school administrator who had acquired any rights to continued employment under this Code section prior to April 7, 1995, shall retain such rights:

(A) In that administrative position which such administrator held immediately prior to such date; and

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<sup>1</sup> O.C.G.A. § 20-2-940 provides the reasons why a teacher or other employees may be terminated or suspended, the procedures for giving notice, the rights to counsel, the conduct of hearings, and the right to appeal.

(B) In any other administrative position to which such administrator has been involuntarily transferred or assigned,

and only in such positions shall such administrator be deemed to be a teacher for the purpose of retaining those rights to continued employment in such administrative positions.

\* \* \*

(2.1) A local board of education may enter into an employment contract with a school administrator for a term not to exceed three years. During the term of any such contract, that school administrator may not be demoted except as provided in the other subsections of this Code section and may not be terminated or suspended except as provided in Code Section 20-2-940, but the school administrator shall have no right to renewal of such contract. The rights provided under such contracts by this paragraph shall be in addition to any rights which a school administrator may otherwise have under the other provisions of this subsection.

(3) Nothing in this subsection shall affect positions which, prior to April 7, 1995, had no rights to continued employment under this Code section including coach, athletic director, finance officer, comptroller, business manager, nurse, department head or chairperson, and similar positions. Nothing in this subsection shall impair the rights of teachers or school administrators with respect to their employment under annual contracts, including but not limited to those rights under Code Section 20-2-940.

The Local Board claims that subpart (c)(1), above, bars Appellant from having a hearing because he had not served as an administrator for more than three years when the law was changed in 1995. Appellant was appointed as an administrator on March 9, 1993, so he had only served for two years as an administrator when the law was changed. The Local Board claims that notwithstanding any right to a hearing as a teacher, an independent requirement existed for an administrator to serve more than three years in an administrative position before there was any need to provide the administrator with notice and a hearing before demoting or non-renewing the administrator's contract. The Local Board's position, however, is not supported by the statutory language.

As previously indicated, above, before the 1995 amendment, the statute did not contain a distinction between teachers and school administrators. The statute only provided that after a teacher had taught for more than three years, the teacher was entitled to receive notice and a hearing before being demoted or not having their contract renewed. O.C.G.A. § 20-2-942(b)(2). A separate requirement that an administrator had to serve an additional three years in an administrative position before acquiring any right to

a hearing has never existed in the statute.<sup>2</sup> Once a teacher earned the right to a hearing, the teacher did not lose the right upon being promoted to an administrative position. There was no provision for such a loss; it carried forward with the promotion.

The language in O.C.G.A. § 20-2-942(c)(1),

... and only in such [administrative] positions [where the right to a hearing was acquired before April 7, 1995] shall such administrator be deemed to be a teacher for the purpose of retaining those rights to continued employment in such administrative positions (emphasis added),

which was inserted as part of the 1995 amendment, indicates that any rights of an administrator to a hearing are derived from the administrator's position as a teacher.

Based upon the foregoing, it is the opinion of the State Board of Education that Appellant had the right to have a hearing on his demotion from an administrative position to a teaching position. Accordingly, the Local Board's decision is REVERSED.

This \_\_\_\_\_ day of September 2003.

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Wanda T. Barrs  
Chairperson - State Board of Education

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<sup>2</sup> The Local Board did not cite any authority for its position that administrators had to serve in their administrative position for an additional three years before earning the right to have a hearing before being demoted or non-renewed.