

STATE BOARD OF EDUCATION

STATE OF GEORGIA

ELIZABETH SAMPSON,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2010-12
	:	
WARE COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by Elizabeth Sampson (Appellant) from a decision by the Ware County Board of Education (Local Board) not to renew her teaching contract because of a reduction-in-force under the provisions of O.C.G.A. § 20-2-940(a)(6). Appellant claims that the evidence did not support the Local Board’s decision, and the decision was arbitrary and capricious. The Local Board’s decision is sustained.

On March 31, 2009, the Local Superintendent notified Appellant, a 30-year employee, that her contract as a third grade teacher would not be renewed for the 2009-2010 school year because of a reduction-in-force. At a hearing before the Local Board, which Appellant requested, the Local Superintendent presented evidence that the school system was facing a budget reduction of approximately \$5.5 million. Appellant’s principal was directed to cut six positions in the elementary school based upon state funding guidelines. Appellant was one of six third grade teachers. Although Appellant was selected to be dismissed, the third grade required six teachers despite the budget cuts and another teacher in the school was assigned to take Appellant’s place. Appellant’s principal testified that she elected not to renew Appellant’s contract because parents had complained about how strict Appellant was with her students and the principal had transferred students out of Appellant’s class. The principal had never admonished Appellant about her classroom management approach. Appellant claimed, through her attorney, that she was the victim of “Double 55s” – she was over 55 years of age and making more than \$55,000 per year. The Local Board voted to terminate Appellant’s contract and Appellant appealed to the State Board of Education.

The question raised in this appeal is whether, under a reduction-in-force plan, a teacher can be non-renewed when there is no reduction in the number of teachers required to teach the grade in which the teacher teaches. Appellant argues that since her teaching position was not eliminated and there was no loss of students in the third grade, the Local Board erred in not renewing her contract. Appellant also argues that the Local Board’s decision was arbitrary and capricious because there was no objective standard employed to determine who should be eliminated. The Local Board argues that the

selection of positions to eliminate was done on a school-wide basis rather than on a grade-by-grade basis since all of the teachers were certified to teach all elementary grades.

O.C.G.A. § 20-2-940(a)(6) provides that a teacher's contract can be terminated "[t]o reduce staff due to loss of students or cancellation of programs." In *Curry v. Dawson Cnty. Bd. of Educ.*, 212 Ga. App. 827, 442 S.E.2d 919 (1994), the Court of Appeals approved the State Board of Education's observation that "the underlying purpose for authority to terminate teachers due to the loss of students or cancellation of programs is precisely to economize." 212 Ga. at 828, 442 S.E.2d at 921. "The release of any employee under a reduction in force program is not dependent upon the employee's competency. The essential question is whether a reduction in force program is required. Once the necessity for a reduction in force program has been shown, a local board can adopt, or approve, any number of methods for selecting which employees will be terminated." *Hinton v. Warren Cnty. Bd. of Educ.*, Case No. 2004-19 (Ga. SBE, Dec. 2003)(approving a "last-in, first-out" reduction plan). "The Local Board could have adopted any number of plans to reduce its expenses Whatever plan the Local Board adopted was an administrative decision that the State Board of Education will not question. The plan was only one of any number of undesirable courses of action the Local Board could have taken, but there was no evidence that it was designed to cause Appellant's dismissal." *Ellington v. Buford City Bd. of Educ.*, Case No. 1991-26 (Ga. SBE, Nov. 14, 1991). "A local board of education ... is charged with the responsibility of managing the operation of its schools" *Joseph M. v. Jasper Cnty. Bd. of Educ.*, Case No. 1981-40 (Ga. SBE, Feb. 11, 1982).

In the instant case, the school system decided that six positions could be eliminated in the elementary school. Since all of the teachers were certified to teach all of the grades within the school, the school system viewed the school in-toto rather than by class, thus a teacher who was fortuitously assigned to a class that did not have a reduction in students stood in the same stead as any other teacher. There was no question that the reduction was necessary, and the State Board of Education will not interfere with a local board in deciding which reduction plan to adopt, *see, Hinton*, above, since the adoption of any plan falls within the purview of local management of the operation of the schools. Accordingly, the State Board of Education is of the opinion that a teacher can be non-renewed when there is no reduction in the number of teachers required to teach the particular grade to which the teacher has been assigned but there is a reduction in the overall number of teachers required in the school.

As stated, above, the release of any employee under a reduction in force program is not dependent upon the employee's competency. Since an employee's competency is not the issue, the ultimate decision necessarily is not entirely objective, but that does not establish that the decision was arbitrary or capricious. In the instant case, the principal selected Appellant for non-renewal because of the number of complaints received from parents and the Local Superintendent approved this approach. We do not deem this approach to be arbitrary or capricious.

For all of the foregoing reasons, the State Board of Education is of the opinion that the Local Board's decision was supported by the evidence and was not arbitrary or capricious. Accordingly, the Local Board's decision is SUSTAINED.

This _____ day of October 2009.

William Bradley Bryant
Vice Chairman for Appeals