

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>EMILY TARTER,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>vs.</b>	:	<b>CASE NO. 2010-16</b>
	:	
<b>WHITFIELD COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	<b>DECISION</b>

This is an appeal by Emily Tarter (Appellant) from a decision by the Whitfield 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 her classes have not been canceled, the reduction-in-force plan was not prepared in accordance with the Local Board's policies, the reduction-in-force plan was a subterfuge for terminating her without cause, and the Local Board failed to comply with the provisions of § 20-2-940(a)(6) because it did not issue its decision within 5 days after the hearing. The Local Board's decision is sustained.

Faced with declining revenues from the State and decreased tax revenues, the Local Board directed the Local Superintendent to initiate a reduction-in-force plan. Based upon State guidelines, the Local Superintendent determined that approximately 17 teachers needed to be eliminated in the high school program. The Local Superintendent asked the three high school principals to assess their needs and make retention recommendations. Appellant taught engineering drawing, which was her only certification. Appellant also taught two classes in the in-school suspension program. The number of students taking engineering drawing had dropped to less than 15 students that had signed up for the class for the 2009-2010 school year. Based on the decrease in the number of students, the administration decided that the engineering drawing class should be eliminated and the in-school suspension program was moved out of the school.

At a hearing on June 9, 2009, the Local Board of Education heard testimony concerning the reduction-in-force and voted to accept the Local Superintendent's recommendation to eliminate Appellant's position and not to renew Appellant's teaching contract. Appellant then filed an appeal with the State Board of Education.

Appellant claims that her classes were not eliminated. The record, however, does not support Appellant's claim. Both the Local Superintendent and Appellant's principal testified that Appellant's engineering drawing class was eliminated because of the dearth of students who signed up for the class. In addition, the in-school suspension program

was moved out of the high school. Appellant's claim that her classes were not eliminated, therefore, is without merit.

Appellant also claims that the reduction-in-force plan was not adopted in accordance with the Local Board's policies because the Local Superintendent delegated the responsibility of determining which positions would be eliminated to the principals. Appellant has not cited any law or pointed to any provision of the Local Board's policies that would prevent the Local Superintendent from delegating an administrative task to the principals and asking them for their recommendations. Ultimately, it was the Local Superintendent who presented the reduction-in-force plan to the Local Board. Appellant's claim that the Local Board's reduction-in-force policy was not followed is also without merit.

Appellant claims that the reduction-in-force was a subterfuge, but she fails to point out any facts that would establish any subterfuge. Instead, the record shows that the Local Board eliminated at least 17 positions in the high school program and that the engineering drafting program was no longer necessary. Appellant's subterfuge claim, therefore, is also without merit.

Appellant also claims that the Local Board failed to issue its decision within five days after the hearing as required by O.C.G.A. § 20-2-940. The hearing was held on June 9, 2009, and the Local Board issued its decision on Monday, June 15, 2009. O.C.G.A. § 1-3-1(d)(3) provides that Saturdays, Sundays, and legal holidays are excluded whenever the period of time prescribed for some action is less than seven days. Additionally, if the last day falls on a Saturday or Sunday, the party required to act has until the following Monday to act. The Local Board, therefore, issued a timely decision.

Based upon the foregoing and a review of the record, it is the opinion of the State Board of Education that the record supports the Local Board's decision and Appellant's claims are without merit. Accordingly, the Local Board's decision is SUSTAINED.

This \_\_\_\_\_ day of October 2009.

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William Bradley Bryant  
Vice Chairman for Appeals