

On September 1, 1992, the Local Board conducted a hearing. During the hearing, evidence was presented that during his last year as principal, Appellant received a salary of approximately \$60,000.00. As Maintenance Director, his salary is \$54,000.00. Conflicting testimony was also received concerning the relative responsibility and prestige of a principal position and a maintenance director position.

On September 16, 1992, the Local Board entered its findings of fact and decision. The Local Board concluded that its reduction in force policy was inapplicable and that if Appellant was demoted, there was cause for the demotion. Appellant then filed a timely appeal to the State Board of Education.

PART III

DISCUSSION

Appellant contends that he was demoted, but the provisions of O.C.G.A. § 20-2-940 are inapplicable and the Local Board's reduction in force policy should have been followed. Accordingly, Appellant seeks to have the Local Board reinstate his previous salary. The Local Board claims that Appellant was not demoted, but, if he was, then the consolidation of schools is sufficient cause for demotion under O.C.G.A. § 20-2-940. The Local Board also argues that its reduction in force policy is not applicable to Appellant's situation because it was designed to apply only to teachers. Alternatively, the Local Board argues that if the policy was applicable, it chose to waive the policy.

We examine the parties contentions in inverse order.

Reduction in force

The Local Board's policy regarding reduction in force provides:

It shall be the policy of the Rome Board of Education, when faced with declining student enrollment, program changes, or fiscal exigency, to abolish job positions, to reduce the length of the work year and salary of staff, and/or to reduce the number of staff members.

Rome City Board of Education Policy GBKA.

The policy regulations, GBKA-R, provide the administrative considerations in implementing a reduction in force program. Specifically, the regulations provide, in part:

- A. Prior to setting in motion the mechanics of a reduction in staff as outlined herein, every consideration will be given to meeting the needed reductions through (a) voluntary retirements, (b) voluntary resignations, (c) transfer and reassignment of existing staff, (d) voluntary leaves of absence, or (e) any other normal means of attrition.

- D. The initial determination of staff members to be released due to necessary reductions will be in accordance with the following order of categories:
- E. Within each category of paragraph D, the following criteria will be used for ordering teachers for termination due to necessary reductions:
 - 1. area(s) of certification
 - 2. total years of experience
 - 3. total years of experience in Rome City Schools
 - 4. total years of experience in the position
 - 5. degree status and additional study
 - 6. written, objective evaluation of skill, ability and performance

Appellant claims that regardless of the intent with which the policy was adopted, it applies equally to administrators as to teachers because its heading says "Professional Personnel Layoff." Appellant claims that if the criteria for ordering termination was followed, then he would have been selected as the principal of the consolidated school rather than a person from outside the school system.

The decision to eliminate a principal position and hire a person from outside the school system to serve as the principal of the consolidated school was made by the Local Board in the spring of 1991. Appellant did not challenge the decision to eliminate a principal position and hire someone from outside the school system for the remaining principal position when it was made. Instead, he now attempts, almost a year after the decision was made, to make a collateral attack on the Local Board's decision. O.C.G.A. § 20-2-1160(b) provides that any person aggrieved by a decision of a local board of education must file an appeal to the State Board of Education within thirty (30) days of the decision of the local board. Appellant, therefore, cannot now attack the Local Board's decision to eliminate a principal position and hire someone from outside the system to serve as the principal of the consolidated school.

Except for the position of principal of the consolidated school, there was no evidence that any other position was available within the school system. With the offer of the position of Maintenance Director to Appellant, and his acceptance, there has not been a reduction in staff. Appellant has not shown that subparagraphs D and E of GBKA-R, above, which deal with the release of personnel, are applicable. Since Appellant has been reassigned, the Local Board complied with subparagraph A(c) of GBKA-R. Thus, the State Board of Education concludes that the Local Board followed its policy GBKA and regulation GBKA-R, regardless of their applicability.

Cause for demotion

O.C.G.A. § 20-2-943(a)(2)(C) provides that under O.C.G.A. § 20-2-940, a local board of education can demote a school employee. O.C.G.A. § 20-2-940 provides for action to "reduce

staff due to loss of students or cancellation of programs” and for “any other good and sufficient cause.” A demotion requires a loss of responsibility, prestige, and salary. Rockdale County Sch. Dist. v. Weil, 245 Ga. 730, 266 S.E.2d 919 (1980).

In Curry v. Dawson Cnty. Ed. of Educ., Case No. 1991-7 (Ga. SEE, Apr. 11, 1991), the State Board of Education held that the elimination of an administrative position due to a reorganization was a “cancellation of programs” under O.C.G.A. § 20-2-940. See, also, Jones v. Gilmer Cnty. Ed. of Educ., Case No. 1992-33 (Ga. SEE, Mar. 12, 1992) (elimination of a position is sufficient cause for demotion).

Appellant argues that O.C.G.A. § 20-2-940 is inapplicable because the consolidation of the two high schools did not result in a loss of students or the cancellation of programs. Under our holding in Curry, supra, we conclude that the elimination of one principal position as the result of the consolidation of two schools is a “cancellation of programs” within the meaning of O.C.G.A. § 20-2-940. As a result, it is immaterial whether the position of Maintenance Director has less responsibility or prestige than the position of principal; if there was a demotion, then the demotion is permitted under O.C.G.A. § 20-2-940.

PART IV

DECISION

Based upon the foregoing, the State Board of Education is of the opinion that if Appellant was demoted, then the demotion was permitted under the provisions of O.C.G.A. § 20-2-940, and the Local Board did not deny Appellant any rights under either the Fair Dismissal Act or its reduction in force policy. The Local Board’s decision, therefore, is

SUSTAINED.

This 11th day of March, 1993.

Mr. Sears and Mr. Sessoms were not present. Mr. Brinson did not participate or vote in this case.

Hollis Q. Lathem, Chairman
State Board of Education