

occurred. Appellant appealed and the Local Board convened for a Level III hearing on October 11, 1993. The Local Board held that the 1983 move from elementary principal to Assistant Director/Evening Coordinator at OEC was a lateral move, that by 1993, when Appellant was reassigned to the elementary assistant principal position, the duties of a principal and an assistant directorship had grown at different paces, and that the assignment to an elementary assistant principal position in 1993 was a lateral move from the OEC Assistant Directorship. Appellant's appeal to the State Board of Education was received on December 2, 1993.

PART III

DISCUSSION

Appellant maintains on appeal that the combination of the transfer from elementary school principal to Assistant Director/Evening Coordinator in 1984 and the reassignment in 1993 to Assistant Principal at Dresden Elementary School constituted a demotion, which resulted in a violation of O.C.G.A. § 20-2-940 because he was demoted without a hearing and the required due process procedures.

A demotion occurs when a teacher is reassigned "from one position in the school system to another position in the school system having less responsibility, prestige and salary." O.C.G.A. § 20-2-943(a)(2)(C). If Appellant's two moves are viewed as one, i.e., from principal to assistant principal, then a demotion occurred because there is less responsibility, less prestige, and a reduction in salary between the two positions. In our view, however, the two moves cannot be viewed as one because of the occurrence of the two intervening events - the transfer to the assistant director position and the salary scale change that occurred in 1988.

The transfer in 1993 to the position of assistant principal did not result in a demotion because Appellant did not have less responsibility and his salary was not decreased. Instead, Appellant effectively had a decrease in responsibility and salary in 1988 when his position was downgraded (or the position of elementary principal was upgraded) and he was placed on a different salary schedule. Although there was conflicting evidence about whether Appellant knew about the 1988 realignment, he should have taken some action then to maintain his status.

Clearly, this is not a case where an employee was given two transfers in an effort to avoid the strictures of O.C.G.A. § 20-2-943. Instead, Appellant accepted the assistant director position and remained there for ten years. His situation is analogous to that of an employee who moves into a different department and thus into a different career track, and then decides to return to the original department several years later after substantial changes have occurred in the original position so that the employee is no longer conversant with the old position. Unfortunately, not all career choices turn out as desired, but that does not result in the vesting of any extraordinary rights because of what might have occurred if the original choice was not made.

By waiting until this late date, Appellant waived any claim of demotion. Had he applied for a principal's position in 1988, then a demotion claim would have been timely. We, therefore, conclude that Appellant was not demoted as a result of his transfer in 1993 and the Local Board was not required to give him a hearing under the provisions of O.C.G.A. § 20-2-940. See O.C.G.A. § 20-2-943(b).

PART IV

DECISION

Based upon the foregoing, the State Board of Education is of the opinion that Appellant was not demoted as a result of the 1983 transfer from elementary principal to Assistant Director\Evening Coordinator at OEC and the 1993 transfer to elementary assistant principal. Accordingly, the Local Board was not required to follow the provisions of O.C.G.A. § 20-2- 943. The Local Board's decision, therefore, is

SUSTAINED.

This 14th day of April, 1994

Mr. Brinson, Mrs. King, Dr. Thornton and Mr. Williams were not present.

Richard C. Owens, Chairman
State Board of Education