

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>THURMAN WAITS,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	<b>CASE NO. 1993-49</b>
<b>vs.</b>	:	
	:	<b>DECISION</b>
	:	
<b>BARTOW COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	

**PART I  
SUMMARY**

This is an appeal from a decision by the Bartow County Board of Education (Local Board) to accept the recommendation of the Local Superintendent to terminate Thurman Waits (Appellant) from his position as Assistant Superintendent as a result of the Reduction in Force (RIF) policy. Appellant maintains on appeal that sufficient cause did not exist for the RIF policy to be initiated in the Bartow County School System (School System) and that the RIF was improperly applied to terminate him. The decision of the Local Board is sustained.

**PART II  
FACTUAL BACKGROUND**

In February, 1993, the Local Superintendent recommended reducing the central office staff by five employees. The Local Board authorized the elimination of four central office employees. The Local Superintendent grouped the central office employees into four categories based on the similarity of their positions so that no one group would suffer the brunt of the staff reduction. The employee with the fewest retention points in each category was removed. The two assistant superintendents were placed in one category because their positions and authority were similar. Appellant was terminated from his position as Assistant Superintendent after the Local Board determined that he had the fewest retention points based on Board Policy GBKA.

A hearing was held by the Local Board on September 25, 1993. The Local Superintendent decided that a RIF was needed based on his observations and evaluations of the central office staff. The Local Superintendent has four years experience working in the central office and six years experience as a principal. After the RIF, none of the remaining staff was unduly burdened. In addition, the Local Superintendent testified that the School System saved \$320,000 a year as a result of the RIF policy.

The Local Superintendent applied Local Board Policy GBKA to reduce the staff. Under the policy, retention points are based on the level of certification and the number of years an employee has been with the School System. An additional one-quarter point is added for each earned hour above a certified level leading towards the next level of certification. Evidence was presented that Appellant currently holds an L-6 certificate. Appellant needs a doctorate degree to reach the next level of certification. Appellant provided evidence of course work he took at Nova

University, the University of Georgia and Georgia State University. The Local Board determined that none of Appellant's course work would be counted towards a doctorate degree, and, therefore, would not be included in the calculation of retention points. The Local Superintendent testified that a position comparable to Appellant's position is not open within the School System.

Appellant introduced a 1983 Policies and Procedure Manual mandates that any RIF should be done system-wide. There was no evidence that the manual was adopted by the Local Board or that it has ever been applied to a RIF. On November 8, 1993, the Local Board decided that the Appellant's dismissal was in accordance with the laws of the State of Georgia and its policies. Appellant appealed to the State Board of Education on November 8, 1993.

### **PART III DISCUSSION**

On appeal, Appellant maintains that there was insufficient cause to initiate the RIF and that the RIF was improperly applied to terminate him from his position as Assistant Superintendent. "The standard for review by the State Board of Education is that if there is any evidence to support the decision of the local board of education, then the local board's decision will stand unless there has been an abuse of discretion or the decision is so arbitrary and capricious as to be illegal. See. Ransum v. Chattooga County Bd. of Educ., 144 Ga. App. 783, 242 S.E.2d 374 (1978); Antone v. Greene County Bd. of Educ., Case No. 1976-11 (Ga. SBE, Sep. 8, 1976)." Roderick J. v. Hart Cnty. Bd. of Educ., Case No. 1991-14 (Ga. SBE, Aug. 8, 1991). In the instant case, there is sufficient evidence to support the decision of the Local Board.

The Local Superintendent was in a position to determine the need for a RIF. The central office staff reduction saves the School System \$320,000 a year and no employees have been unduly burdened as a result of the RIF.

The evidence also shows that the RIF was properly applied. Although Policy GBKA requires a RIF to be applied system-wide, there was no evidence that the policy prevented a RIF within the central office staff or that employees could not be grouped into categories. There also was no evidence that the 1983 Policies and Procedure Manual was adopted by the Local Board or that the policies are not subject to change by action of the Local Board or by the administrative action of the Local Superintendent.

Appellant claims that the Local Board erred by not counting his course work at Nova University, the University of Georgia, and Georgia State University towards his retention points. If the courses were counted, he would have more retention points than the other Assistant Superintendent and, therefore, would not be terminated. However, it is within the Board's province to interpret its own policies. Appellant's own witness testified that the courses taken at Georgia State University and the University of Georgia go towards an L-6 certificate, which Appellant already holds. Additionally, there was evidence that the courses Appellant took at Nova University are not to be counted towards any degree. The Local Board has the discretion to find that if an earned hour above a certified level does not lead towards the next level of certification, it is not required to award an additional one-quarter point for that earned hour.

Appellant also claims the Local Board should have placed him as a principal or an assistant principal rather than terminate his employment. There is, however, no requirement for the Local Board to transfer an employee under a RIF program.

**PART IV  
DECISION**

Based upon the foregoing, the State Board of Education is of the opinion that there was evidence to support the Local Board's decision. The Local Board's decision, therefore, is

SUSTAINED.

This 14<sup>th</sup> day of April, 1994.

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

Richard C. Owens, Chairman  
State Board of Education