

O.C.G.A. § 20-2-942(c)(1). Appellant, however, presented copies of her contract that stated that her position was a non-administrative position. Despite the evidence that showed that the ILS position was not an administrative position, the tribunal found that the provisions of O.C.G.A. § 20-2-942(c)(1) applied to the position and Appellant did not have any rights in the position since she first assumed it after April 7, 1995. Consequently, the tribunal recommended that the Local Superintendent's assignment of Appellant to a teaching position should be upheld. The Local Board adopted the tribunal's recommendation. Appellant then appealed to the State Board of Education.

Appellant claims that there is no evidence that the ILS position is an administrative position; all of the Local Board's own witnesses testified that the position is not an administrative position. The Local Board initially argued that the ILS position was an administrative position to which the provisions of O.C.G.A. § 20-2-942(c)(1) applied. The Local Board, however, abandoned this contention during oral argument. The Local Board then argued that the duties of an ILS are merely supplementary duties assigned to a teacher similar to the duties of a coach, or a newspaper adviser, for which a supplemental salary is paid, but there is no property right in such extra duties or in the supplemental salary paid for performing such duties. *See, e.g., King v. Bd. of Educ. of the City of Buford*, 214 Ga. App. 325, 447 S.E.2d 657 (1994)(teacher did not have a property right in band director position because it is not a certificated position).

The Local Board's argument that the ILS position is a supplementary position is not supported by the tribunal's findings or by the record. The issue of whether the duties assigned to an ILS are merely supplementary duties to be carried out by a teacher was not addressed at the hearing. Additionally, there was no evidence concerning the certification required by an ILS, which was one of the factors the *King* court examined. The basis for the tribunal's decision was that O.C.G.A. § 20-2-942(c)(1) did not permit the acquisition of any rights in the position because it is an administrative position. Since the Local Board abandoned the argument that the position is an administrative position, there is no basis to support the tribunal's decision.

A demotion occurs when an employee is transferred from one position to another and there is a loss of responsibility, prestige, and salary. *Rockdale County School District v. Weil*, 245 Ga. 730, 732, 266 S.E.2d 919, 921 (1980). The Local Board takes the position that the transfer to a teaching position from an ILS position does not constitute a demotion because the position of a teacher has as much prestige as an ILS position. The Local Board's argument, however, is without merit. The Local Board is arguing, in effect, that a teacher's position is the most prestigious position in a school system and that a transfer from any position to a teaching position would not be a demotion because there would not be a loss in prestige. While teachers are the linchpin of education, it does not follow that a non-teaching position lacks the prestige of a teaching position. For example, a principal would not be deemed to have the same or less prestige than a teacher.

The tribunal did not make any findings on whether the ILS position is more prestigious than a teaching position. There was testimony that the ILS position is

considered part of the management team and the ILS person works directly with the principal at a higher salary than what is paid to a teacher.¹ It thus appears that the ILS has more influence in the school than is possessed by a teacher, which the Local Board recognizes by paying the higher daily salary to the ILS. We, therefore, conclude that the Local Board failed to establish that there is not a loss of prestige in moving from an ILS position to a teaching position. Appellant, therefore, was demoted because she suffered a loss of responsibility, prestige, and salary. Since her demotion was without cause, she was denied due process.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board improperly demoted Appellant without cause, thus denying her due process. Accordingly, the Local Board's decision is REVERSED.

This _____ day of January 2005.

William Bradley Bryant
Vice Chairman for Appeals

¹ There was testimony that the higher salary was the result of working more days, but the additional days account for only part of the salary differential. In the instant case, the daily salary paid to Appellant was \$350, while the amount proposed for her teaching position is \$334.21 per day.