

STATE BOARD OF EDUCATION

STATE OF GEORGIA

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| MOZELL SMITH, JR., | : | |
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| Appellant, | : | |
| | : | |
| vs. | : | CASE NO. 2009-32 |
| | : | |
| TWIGGS COUNTY | : | |
| BOARD OF EDUCATION, | : | |
| | : | |
| Appellee. | : | DECISION |

This is an appeal by Mozell Smith, Jr. (Appellant) from a decision by the Twiggs County Board of Education (Local Board) not to grant him creditable service credit for the period of time he was employed by an accredited college. The Local Board’s decision is sustained.

The Local Board employed Appellant in 2002 as a classroom teacher after Appellant left the employ of Fort Valley State University (FVSU), where he had worked from 1983 until the Local Board employed him. While at FVSU, Appellant held the positions of Logistical Support Manager and Director of Support Services, both positions being essentially the same and requiring him to oversee the campus bookstore, the campus post office, risk management, vending operations, telecommunications, records management, food service, ticket sales, and cable television. In carrying out his duties, Appellant “maintained inventory control in compliance with State and Federal Guidelines, conducted departmental equipment audits, maintained computerized inventory records, assisted with the acquisition and disposal of surplus property in accordance with State and Federal regulations, updated property register, approved and accepted equipment for new or renovated buildings, decaled equipment, pulled check vouchers to verify all equipment purchases, input all data in the property management system, completed all transfer of equipment, coded and filed all records in the records center, retrieved folders from the records center, approved all file cabinets, conducted telephone audits; broke down telephone bills for payment, completed paperwork for telephone installations, issued telephone calling cards, reported telephone malfunctions, updated local and GIST directories, completed paperwork for tags and titles for vehicles assigned to Fort Valley State College, and assisted all vendors with the licensing of Fort Valley State College paraphernalia.” Stipulation of Parties, ¶ 4. While employed by FVSU, Appellant earned his masters degree in 1989.

Rule 160-5-2-.05(4)(b) provides that, for the purposes of establishing minimum state salaries based upon years of creditable experience and the highest certificate held, a local board of education “shall recognize experience in a professional position for which

a certificate or state/national license is not required, provided that the individual held a degree from a regionally accredited college/university when the experience was earned.” The rule goes on to provide that experience will be recognized under the following conditions: “(1) Serving in a professional position in a regionally accredited college/university; e.g., as a teacher, counselor, librarian, dean, president, provided the experience was full-time and the individual held academic/professional rank or the equivalent; e.g., instructor, assistant professor, associate professor, professor. Individuals receiving experience credit shall have held a master’s degree, at a minimum, and/or shall have been on a tenured track when the experience was earned.” Rule 160-5-2-.05(4)(b)(1). The rule also has other situations where creditable experience can be obtained, two of which state that credit will be granted for “(6) Serving in any local unit of administration in a professional leadership position that does not require a certificate; e.g., school business manager, school personnel director, school facilities director/planner, school/community coordinator” and “(7) For creditable experience as a school nutrition director, serving as a food service manager/supervisor in a public or private organization, provided the experience was full time...” Rule 160-5-2-.05(4)(b)(6) and (7). The parties agree that Appellant held a master’s degree from an accredited college; they disagree on whether his experience was in a professional position.

The Local Board argues that the rule requires instructional service to obtain credit and Appellant’s positions at FVSU did not require any instructional activity. Instead, the Local Board argues, Appellant’s positions at FVSU were “not unlike similar positions that exist at many private businesses across the country.” Additionally, the Local Board argues that the definitional section of the rule, which provides that “Full-time experience in a regionally accredited college or university is defined as teaching 15 quarter hours each quarter for three consecutive quarters or nine semester hours each semester for two consecutive semesters and/or holding a full-time contract for a professional position from the institution”,¹ limits creditable experience to teaching experience or the need to have a full-time contract with the institution, and there was no evidence that Appellant had any teaching duties or had a full-time contract with FVSU.

Appellant argues that the work he performed was in a professional position that was similar, if not the same, as the positions recognized in Rule 160-5-2-.05(4)(b)(6) and (7), i.e., school business manager, school personnel director, school facilities planner, or food service manager.

Part (b) has nine subparts that set forth “conditions” that fulfill the requirement of being a “professional position”. Subpart (1) establishes four conditions for its application. Firstly, the individual has to be employed by an accredited college or university. Secondly, the experience has to be full-time. Thirdly, the position has to be that of an instructor or professor. Fourthly, the individual must hold a master’s degree or have been on a tenured track.

¹ Rule 160-5-2-.05(2)(d)(1).

Each of the other eight subparts are applicable to employment in different settings. For example, subpart (6) applies if the individual was employed by a local school board, while subpart (7) applies if an individual is seeking creditable service as a school nutrition director. The only subpart to which Appellant can look is subpart (1) because it addresses employment in a college or university. Unfortunately for Appellant, he does not meet the third criterion, the need to be an instructor or professor. The experience Appellant obtained would have been sufficient to provide him with creditable service in another setting. For example, Appellant's experience would have satisfied the requirements of subpart (6) if he had been employed by a local board of education rather than a college or university. An individual, however, cannot pick and choose among the various subparts to obtain eligibility. Each subpart stands on its own. The State Board of Education, therefore, concludes that the Local Board properly denied Appellant credit for his years of work with FVSC.

Because we decide that the Local Board's decision was a proper interpretation of the rule, we need not address Appellant's unsupported claim that the Local Board was biased in reaching its decision.

Based upon the foregoing and a review of the record, it is the opinion of the State Board of Education that the Local Board properly interpreted Rule 160-5-2-.05 in denying Appellant experience credit for his years of service with Fort Valley State College because he was not in a teaching capacity during those years. Accordingly, the Local Board's decision is
SUSTAINED.

This _____ day of April 2009.

William Bradley Bryant
Vice Chairman for Appeals