

STATE BOARD OF EDUCATION

STATE OF GEORGIA

BRENDA SHANKLE,)
)
 Appellant,)
 v.) **CASE NO. 1990-30**
)
 ELBERT COUNTY)
 BOARD OF EDUCATION,)
) **DECISION**
 Appellee.)

This is an appeal by Brenda Shankle (“Appellant”) from a decision by the Elbert County Board of Education (“Local Board”) to uphold the administrative decisions reached in a grievance proceeding filed by Appellant to protest her teaching assignment for the 1990-1991 school year. Appellant maintains that her assignment was improper because it is out of field and requires her to add an additional certification. The Local Board’s decision is sustained.

Appellant has been employed by the Local Board for fifteen years. Until the 1990-1991 school year, she taught eighth grade English classes. She is certified for grades seven through twelve. She obtained her degree in English, performed her student teaching in a high school, and concentrated her studies in secondary education.

The Local Board reorganized its schools at the beginning of the 1990-1991 school year to create a middle school that contained sixth, seventh, and eighth grade classes. Before the reorganization, the middle school had only seventh and eighth grade classes. In order to integrate the faculties, the middle school principal moved teachers from the seventh and eighth grades to the sixth grade and moved sixth grade teachers into the seventh and eighth grades.

Appellant filed a grievance to protest her assignment to the sixth grade. Her protest was based upon the fact that she would be required to obtain another certification, which would mean she had to take a teacher competency test (TCT) for the middle grades. The TCT for the middle grades requires the teacher to have knowledge about science, mathematics, and social studies. The Local Superintendent ruled against Appellant’s grievance, and the Local Board granted Appellant a hearing on her grievance.

During the hearing, Appellant’s principal testified that he had informed Appellant that she would have to take the middle grades TCT, but he was not going to recommend her dismissal if she did not pass the examination. Appellant can teach during the 1990-1991 school year based upon a probationary certificate. Appellant has fulfilled all of the requirements for a middle school certification except for the TCT. Further, the school system and Appellant had an agreement whereby the teacher would do the required course work and other requirements to

obtain the appropriate certificate. This is evidenced by the fact that the Appellant took a \$1,400 stipend and completed the required course work necessary for a middle school certificate. All teachers within the Elbert County Middle School have been able to pass the TCT.

The Local Board voted to sustain the Local Superintendent's decision. This appeal followed.

Appellant maintains on appeal that the Local Board's decision is improper because it places her in a position that subjects her to dismissal on the grounds of failure to maintain her certification. Appellant claims that such a result strips a teacher of any protection afforded by the Fair Dismissal Act, O.C.G.A. § 20-2-940 et seq. The Local Board argues that it has the statutory right to transfer and assign teachers as it deems necessary in the best interests of the school system.

Further, the transfer was performed based upon an agreement between the Appellant and the system which created an amendment to the contract requiring her to obtain middle school certification.

O.C.G.A. § 20-2-943(b) permits a local board of education to assign and reassign teachers as it deems necessary. The statute does not establish any restrictions on such assignments and reassignments. Here, the teacher implicitly agreed to the transfer, as evidenced by her acceptance of the stipend and completion of the requisite course work. While Appellant argues that the transfer will lead to her dismissal, the facts do not show that the Local Board will terminate Appellant's employment. Appellant's claim of any violation of the Fair Dismissal Act is premature.

The issue before this Board is not whether a system can require a teacher to accept a transfer into an area where she lacks the appropriate certification but whether or not by virtue of her performance on an agreement amends the contractual obligation of the employment contract. We find that it does create an amendment to the contract and, therefore, creates the contractual obligation by the Appellant to perform accordingly, i.e., obtain a middle school certificate. Whether or not the Appellant is in breach of this contract is not a question before this Board.

Based upon the foregoing, the State Board of Education is of the opinion that the Local Board could transfer Appellant to a sixth grade teaching position if the transfer complies with the regulations of this Board and Appellant's certification.

Accordingly, the Local Board's decision to transfer Appellant is sustained if Appellant is qualified to teach the class to which she has been transferred.

This 21st day of February, 1991.

Larry A. Foster
Vice Chairman For Appeals