

STATE BOARD OF EDUCATION

STATE OF GEORGIA

MARY FRANCES DANIELS, :
 :
 Appellant, :
 v. : **CASE NO. 1993-20**
 :
 GRIFFIN-SPALDING COUNTY : **DECISION**
 BOARD OF EDUCATION, :
 :
 Appellee. :

PART I

SUMMARY

This is an appeal by Mary Frances Daniels (“Appellant”) from a decision by the Griffin-Spalding County Board of Education (“Local Board”) that upheld the decision of the Local Superintendent that O.C.G.A. § 20-2-218, which requires local boards of education to give teachers in grades K through 5 a thirty-minute duty-free lunch, does not permit teachers to leave campus. The Local Board’s decision is sustained.

PART II

FACTUAL BACKGROUND

On January 26, 1993, the principal of Moore Elementary School informed his teachers that the provisions of O.C.G.A. § 20-2-218 would be implemented at Moore Elementary School on January 28, 1993. O.C.G.A. §20-2-218 provides:

- (a) Every teacher who is employed in grades K through 5 for a period of time of more than one-half of the class periods of the regular school day shall be provided a daily lunch period of not less than 30 consecutive minutes, and such employee shall not be assigned any responsibilities during this lunch period. Such lunch period shall be included in the number of hours worked, and no local board of education shall increase the number of hours to be worked by an employee as a result of such employee being granted a lunch period under the provisions of this Code section. This duty-free lunch period shall not be calculated under any circumstances as a part of any daily planning period or other non-instructional time. The implementation of this duty-free lunch period shall be mandated to the extent that state financial support is provided to each school district for such purposes for the fiscal year 1992 only.
- (b) Nothing in this Code section shall be construed to prevent any teacher from exchanging that teacher’s lunch period for any compensation or benefit mutually agreed

upon by the employee and the local superintendent of schools or such superintendent's agent, except that a teacher and the superintendent or agent may not agree to terms which are different from those available to any other teacher granted rights under this Code section within the individual school or to terms which in any way discriminate among such teachers within the individual school.

- (c) The implementation of this Code section may not result in a lengthened school day.
- (d) If necessary where due to extreme economic conditions or an unforeseen and unavoidable personnel shortage, a local unit of administration may require a teacher otherwise entitled to a duty-free lunch period to supervise students during such lunch period but for no more than one day in any school week.
- (e) Notwithstanding any of the foregoing provisions of this Code section to the contrary, nothing in this Code section shall require the General Assembly to appropriate funds for the implementation of the duty-free lunch program; provided, however, that any such funds appropriated for this purpose shall be used by local school systems for duty-free lunch periods of classroom teachers in grades K through 5.

The principal informed the teachers that they would not be allowed to leave school during the thirty-minute period. On February 3, 1993, Appellant filed a grievance with the principal and contended that his interpretation of the statute was erroneous. The principal upheld his interpretation of the statute.

The Local Superintendent and the Local Board upheld the principal's decision in the subsequent appeals that Appellant filed. The Local Superintendent decided that employees could be required to remain on campus during the workday and the requirement for including the lunch period within the eight-hour workday meant that teachers had to remain on the work site during the period. The Local Superintendent also decided that K through 5 teachers should not be treated differently from 6 through 12 teachers, who had to remain on campus even if they did not have lunchroom supervisory responsibilities. The Local Board affirmed the Local Superintendent's decision with the observation that "freedom from being assigned any duties . . . does not encompass the right to leave the school grounds." Appellant then filed a timely appeal to the State Board of Education.

PART III

DISCUSSION

Appellant claims that the statute grant teachers a 30-minute duty-free period, but a rule requires them to remain on campus is an assignment of a duty. The Local Board counters with the argument that if the Legislature wanted to permit teachers to leave campus, then it would have so provided in the statute. The Local Board also argues that it would be a violation of law to pay teachers if they were absent from the campus.

The courts of Georgia have not construed O.C.G.A. § 20-2-218 and neither Appellant nor the Local Board has cited any cases from other jurisdictions that construe similar provisions. Appellant, however, has cited a Texas Attorney General opinion that interprets a similar Texas statute. In the opinion, the Texas Attorney General opined that the 30-minute duty-free statute prohibited any requirement to remain on campus because of the lack of any restricting language.

Letter from Attorney General Mattox to Carl A. Parker. Opinion No. JM-481. April 22. 1986.
The Texas Attorney General took the position argued by Appellant that any obligation to remain on the school campus was the imposition of a duty, and the duty could only be related to the instruction and supervision of students. Id.

O.C.G.A. § 1-3-1 provides, in part:

(a) In all interpretations of statutes, the courts shall look diligently for the intention of the General Assembly, keeping in view at all times the old law, the evil, and the remedy . .

(b) In all interpretations of statutes, the ordinary signification shall be applied to all words, except words of art or words connected with a particular trade or subject matter, which shall have the signification attached to them by experts in such trade or with reference to such subject matter.

Before the law was passed, apparently some K through 5 teachers had to remain with the students throughout the workday, while other teachers did not. The teachers assigned to lunchroom duty and bus duty did not have any respite during the day, while other teachers, those without bus duty or lunchroom duty, had some time away from supervisory or other responsibilities. Thus, they could go to the teachers' lounge, eat in the lunchroom at a separate table, or otherwise do whatever they wanted or needed to do. According to the Local Superintendent's findings, this situation still exists for 6 through 12 teachers. This arrangement did not have anything to do with whether the teacher could leave campus. If a teacher wanted to leave campus, the teacher would have to obtain permission from the principal, or sign out and sign back in, just as the 6 through 12 teachers are required to obtain permission. It did, however, require some teachers to remain with students throughout the day. The situation to be remedied was not whether a teacher could leave campus during the workday; it was whether a teacher had to constantly devote attention to supervising students and other job-related activities while other teachers did not have continuous duties.

The statute requires a "daily lunch period" during which the teacher "shall not be assigned any responsibilities... ." "The period is included in the number of hours worked....," but it cannot be ". . . a part of any daily planning period or other non-instructional time." Notwithstanding Appellant's argument that a requirement to stay on campus is the assignment of a responsibility, we do not interpret the statute to mean that a teacher is free to leave campus during the period. By requiring the period to be included in the number of hours worked, the General Assembly left the teacher under the control of the school system, but the school system cannot require the teacher to exercise any job-related responsibilities.

Appellant's concept of responsibility is too broad. There are some responsibilities that arise simply by virtue of being employed. These responsibilities exist because an employee-employer relationship exists and are unrelated to the employee's position or abilities. One of these responsibilities is the duty to be present at a particular location during a particular time period. There are other responsibilities or duties that are assigned to an employee after the employee arrives at the employment location. These latter responsibilities are related to the employee's position and abilities and represent the tasks the employee is expected to perform after arriving at the work site. For a teacher, these latter responsibilities include teaching classes and supervising students.

We interpret O.C.G.A. § 20-2-218 as addressing these latter responsibilities, i.e., a school system cannot require a K through 5 teacher to perform any on-site duties during the lunch period, but it can require a K through 5 teacher to remain on campus during the lunch period.

This does not mean that O.C.G.A. § 20-2-218 prevents local boards of education from permitting teachers to leave campus during the lunch period. Instead, local boards of education have the authority to decide whether a teacher can leave the campus during the lunch period and the conditions for leaving.

PART IV

DECISION

Based on the foregoing, the State Board of Education is of the opinion that O.C.G.A. § 20-2-218 does not grant K through 5 teachers the unrestricted ability to leave campus during their lunch period. The Local Board's decision is, therefore,

SUSTAINED.

This 12th day of August, 1993.

Messrs. Sears and Williams were not present. Mr. Sessoms abstained.

Robert M. Brinson
Vice Chairman for Appeals