STATE BOARD OF EDUCATION

STATE OF GEORGIA

TERESA SMITH and LINDA LOTT,	:	
	:	
Appellants,	:	
	:	
vs.	:	**CASE NO. 2010-45 and**
	:	
MILLER COUNTY	:	**CASE NO. 2010-46**
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

These are the appeals by Teresa Smith and Linda Lott (Appellants) from decisions by the Miller County Board of Education (Local Board) to terminate their contracts because of a reduction-in-force under the provisions of O.C.G.A. § 20-2-940(a)(6). The appeals have been combined because the facts and issues are substantially the same. In both cases, Appellants claim that the Local Board's decision was arbitrary and capricious because it was discriminatory, the Local Board failed to follow its own policy regarding reductions-in-force, and the hearings were improperly held without a hearing officer. The decision in both cases is sustained.

These cases are controlled by our decision in *Israel v. Miller Cnty. Bd. of Educ.*, Case No. 2010-21 (Jan. 14, 2010), which involved the same reduction-in-force. The Local Board needed to eliminate $800,000 from its expenses because of the loss of state funding and decreased tax revenues. The Local Board did not offer contracts to all the teachers who had less than four years of experience. The elimination of those positions, however, was insufficient to cover the shortfall so the Local Superintendent recommended the non-renewal of those teachers drawing the highest salaries in those areas where there was overstaffing according to state guidelines.

As in *Israel*, Appellants in the instant cases claim that dismissing the highest paid teachers results in age discrimination under the Age Discrimination in employment Act of 1967, 29 U.S.C. § 621 *et seq.* and the Age Discrimination Act of 1975, 42 U.S.C. § 6101 *et seq.* As we observed in *Israel*, the use of salaries as a determinant in a reduction-in-force program does not constitute age discrimination. Appellants have not shown any reason or citation that changes our conclusion in *Israel.*

Appellant's also claim that the Local Board improperly adopted a new reduction-in-force policy. This claim arises because the minutes of the Local Board's meeting referred to the plan presented by the Local Superintendent to the Local Board as a policy. The Local Superintendent testified that the minutes were in error; that he had presented a plan pursuant to the reduction-in-force policy that had been in effect for several years.

Appellants have not shown that the transcription error was anything but a harmless error. We fail to see that a transcription error arises to the level of any due process rights violation.

Appellants also claim that the Local Board's chairman did not preside over the hearing. The record, however, does not show that the chairman was not present or did not serve as the presiding officer. Appellants' claim that the hearing was improperly held is without merit.

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 terminated the contracts of Appellants under a reduction-in-force plan. Accordingly, the Local Board's decision in both cases is SUSTAINED.

This _____ day of April 2010.

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William Bradley Bryant
Vice Chairman for Appeals