

**IN THE OFFICE OF THE SECRETARY OF EDUCATION  
COMMONWEALTH OF PENNSYLVANIA**

<b>ADRIENNE LANCASTER,</b>	:	
<b>Appellant</b>	:	
	:	
v.	:	<b>Teacher Tenure Appeal</b>
	:	<b>No. 03-05</b>
<b>CARLYNTON SCHOOL DISTRICT,</b>	:	
<b>Appellee</b>	:	

**OPINION AND ORDER**

Dr. Adrienne Lancaster appeals to the Secretary of Education (“Secretary”) from the decision of the Board of School Directors of the Carlynton School District (“Board”) demoting her from her position as Curriculum Director to that of Director of Pupil Services.

**FINDINGS OF FACT**

1. Dr. Adrienne Lancaster (“Dr. Lancaster”) was employed by the Carlynton School District (“District”) as a professional employee assigned to the position of Curriculum Director.
2. At a June 29, 2004 meeting, the Board voted to eliminate the position of Curriculum Director effective August 1, 2004. (District Exh. 4).<sup>1</sup>
3. By correspondence dated July 6, 2004, issued by the President and Secretary of the District’s Board of Directors, Dr. Lancaster was notified that the Board voted to eliminate the position of Curriculum Director. Further, Dr. Lancaster was notified that the Board would conduct a hearing for the purpose of determining whether she should be demoted from her position as Curriculum Director to that of Director of Pupil Personnel Services. (District Exh. 1).

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<sup>1</sup> Exh. refers to Exhibits entered into evidence at the hearings held by the Carlynton School District’s Board of Directors.

4. The July 6<sup>th</sup> correspondence also informed Dr. Lancaster that the recommendation for demotion was based on budgetary reasons. (District Exh. 1).

5. By letters dated June 30, 2004, and August 2, 2004, Dr. Lancaster requested a hearing on the matter.

6. By letter dated July 1, 2004, Attorney Ira Weiss, on behalf of the District, informed Mr. Cordes, attorney for Dr. Lancaster, that the June 30, 2004, letter was being treated as notice of Dr. Lancaster's request for a hearing on the demotion.

7. A hearing was held on March 7, 2005. (Tr. 3/7/05).<sup>2</sup>

8. At the hearing, the Business Manager of the District, Kirby Christy, testified that three positions were eliminated from the 2004-2005 budget for a savings to the District of approximately \$185,000.00. (Tr. 3/7/05, p. 29; District Exh. 5).

9. The three positions eliminated from the budget were as follows: Curriculum Director, Transition Coordinator and Assistant to the Principal. (Tr. 3/7/05, pp. 29-30; District Exh. 5).

10. Dr. Lancaster presented evidence that when District administrators moved positions, they took their salaries with them. (Tr. 3/7/05, pp. 39-40). One administrator, Ms. Diane Mooney, moved from her position as Co-Principal at the junior/senior high school to Principal of the elementary school and took her salary with her. (Tr. 3/7/05, p. 41).

11. Another administrator, Dr. Walter McMillan, moved from the Principalship at the elementary school to the Principal for Student Services at the junior/senior high school and took his salary with him. (Tr. 3/7/05, pp. 39-40).

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<sup>2</sup> Tr. refers to the Transcript from hearings held by the Carlynton School District's Board of School Directors.

12. In both of these situations, the administrators transferred from one principalship to another. Nothing in the record supports a conclusion that these moves constituted demotions. (Tr. 3/7/05, pp. 39-40).

13. Upon learning that her position had been cut, Dr. Lancaster exercised her right to bump another employee out of the position of Pupil Services Coordinator. (Tr. 3/7/05, p. 45).

14. Dr. Lancaster concedes that the elimination of the position of Curriculum Director was a substantively and procedurally sound demotion. She argues that her demotion in the form of salary reduction was procedurally improper. (Petition of Appeal ¶ 20; Tr. 3/7/05, pp. 15-19).

### **DISCUSSION**

Pursuant to 24 P.S. §§ 11-1131 and 1151, Dr. Lancaster contests the District's action in reducing her salary subsequent to her demotion from the position of Curriculum Director to that of Director of Pupil Services. In her Petition, Dr. Lancaster seeks "relief in the form of salary reinstatement to the level at which she was paid as Curriculum Director, plus the recent increase granted to Dr. Lancaster for the [2005-2006] school year based on her performance during the [2004-2005] school year as Curriculum Director, as mandated by the District's [Administrator Compensation Plan]." <sup>3</sup> Further, Dr. Lancaster seeks "damages in the form of back pay up to the date of her salary reinstatement." (Petition of Appeal, pp. 4-5). The parties consented to waive oral argument and submit this matter to the Secretary on briefs. Both parties submitted briefs in support of their respective positions.

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<sup>3</sup> To the extent that Dr. Lancaster seeks to appeal her salary reduction under the School District's Act 93 Administrator Compensation Plan, this is not the proper forum in which to raise such an appeal, as the Secretary does not have jurisdiction to hear disputes regarding Act 93 plans.

### *Demotion*

In an appeal of a school board's decision to demote a professional employee, the action of the board is presumptively valid and the demoted employee contesting the action before the Secretary has the burden of proving it to be arbitrary, discriminatory or founded upon improper considerations. *Brownsville Area School Dist. v. Lucostic*, 6 Pa. Commw. 587, 590-91, 297 A.2d 516, 518 (1972). Case law addressing the issue of demotions of professional employees clearly shows that school districts possess broad discretion in personnel and administrative actions that result in demotions. Courts have been reluctant to interfere with a school district's exercise of discretion in a demotion case unless the court is satisfied that the professional employee has met his or her burden of proving that the demotion was arbitrary or based upon inappropriate or discriminatory considerations. *Bollinger*, TTA No. 9-94 at 4. This burden to prove that the demotion was arbitrary or improper has been described as "a very heavy one" by the Commonwealth Court. *Williams v. Abington School Dist.*, 40 Pa. Commw. 535, 537, 397 A.2d 1282, 1283 (1979). An arbitrary action is one "based on random or convenient selection rather than on reason." *Board of Public Education of School Dist. of Pittsburgh v. Thomas*, 41 Pa. Commw. 490, 494, 399 A.2d 1148, 1150 (1979). So long as it has some rational basis, a demotion is not arbitrary simply because it does not effectuate a policy in the most efficient or effective manner. *Id.*, 41 Pa. Commw. at 495, 399 A.2d at 1150.

Dr. Lancaster concedes that the elimination of the Curriculum Director position was procedurally and substantively correct. Further, she agrees that her demotion to the position of Director of Pupil Services was procedurally and substantively correct. The issue that Dr. Lancaster raised before the Board, and now on appeal, is whether the act of reducing her salary was proper. (Petition of Appeal ¶ 20; Tr. 3/7/05, pp. 15-19).

A demotion, by its very definition, involves reassignment to a position that has less authority, prestige or salary. *Filoon v. Middle Bucks Area Vocational-Technical School*, 634 A.2d 726, 160 Pa. Commw. 124 (1993), appeal denied 651 A.2d 544, 539 Pa. 658. Once a demotion is found to be procedurally and substantively proper, all aspects of the demotion are considered procedurally and substantively proper, including the loss in authority, prestige and/or salary associated with the demotion.

At a hearing on the demotion of a professional employee “two questions are before the school board: (1) whether or not the professional employee has been demoted . . . , and, (2) in the event the professional employee has been demoted, the reason for such demotion must be made clear and apparent.” *Smith v. Darby School District*, 388 Pa. 301, 130 A.2d 661, 671 (1957). A valid reason for eliminating positions or demoting employees is the need to reduce the district’s budget. *Pittsburgh v. Eleanora Thomas*, 41 Pa. Commw. 490, 399 A.2d 1148 (1979). A demoted employee contesting the Board's action has the burden of proving it to be arbitrary, discriminatory or founded upon improper considerations. *Smith v. Darby School District*, 388 Pa. 301, 130 A.2d 661 (1957); *Lakeland Joint School District v. Gilvary*, 3 Pa. Commw. 415, 283 A.2d 500 (1971)).

In the case at hand, the parties stipulated that Dr. Lancaster had, in fact, been demoted. Further, the District presented sufficient evidence establishing that the demotion was based on economic reasons. (Tr. 3/7/05, p. 29; District Exh. 5). The Business Manager of the District, Kirby Christy, testified that the positions of Curriculum Director, Transition Coordinator and Assistant to the Principal were eliminated from the 2004-2005 budget for a savings to the District of approximately \$185,000.00. (Tr. 3/7/05, pp. 29-30; District Exh. 5).

Thus, the burden was on Dr. Lancaster to establish that her demotion was arbitrary, discriminatory or founded upon improper considerations. At the hearing, the only evidence presented by Dr. Lancaster in support of her assertion that the reduction in salary was arbitrary related to two administrators who moved into different positions and yet maintained their salaries. However, nothing in the record supports the assertion that these two administrators had been *demoted*. Rather, these two administrators moved from one principalship to another. (Tr. 3/7/05, pp. 39-40). In short, Dr. Lancaster failed to present evidence that any other District administrator had been demoted and maintained their former salary. Because Dr. Lancaster failed to state or provide sufficient evidence that her demotion was arbitrary, discriminatory or based on improper considerations, she has not met her very heavy burden of proof.

#### ***Due Process Hearing***

Having determined that Dr. Lancaster's demotion, which encompassed any loss of authority, prestige or salary, was procedurally and substantively proper, the only consideration remaining before the Secretary is when the demotion became effective. Pursuant to the law, the board of school directors must provide a written statement of charges to a professional employee before that employee can be demoted. The law provides that the hearing must be held no sooner than 10 days and no later than 15 days after the written notice. 24 P.S. § 11-1127. A demotion cannot become effective until after the hearing has taken place. *Nagy v. Belle Vernon Area School District*, 49 Pa. Commw. 452, 412 A.2d 172 (1980).

In the case at hand, Dr. Lancaster requested a hearing both before and after the District issued the written statement of charges on July 6, 2004. By letter dated June 30, 2004, counsel for Dr. Lancaster informed the Board that his client requested a hearing on her demotion and specifically referenced Section 1151. Counsel for the District acknowledged

Dr. Lancaster's request for a hearing in a letter dated July 1, 2004. Specifically, counsel for the District informed Dr. Lancaster that they were "treating [her] letter of June 30, 2004 as notice of [her] request for a hearing." Dr. Lancaster's counsel again requested a hearing by letter dated August 2, 2004, and the hearing was held on March 7, 2005. The District offered no explanation for the delay in offering Dr. Lancaster a hearing. In any event, her demotion could not be effective until after the March 2005 hearing. The Board issued a written decision upholding the demotion on June 22, 2005. Therefore, the Secretary finds that Dr. Lancaster's demotion was not effective until June 22, 2005.

Accordingly, the following Order is entered:

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<b>Appellant</b>	:	
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<b>CARLYNTON SCHOOL DISTRICT,</b>	:	
<b>Appellee</b>	:	

**ORDER**

Dr. Lancaster has failed to meet her burden of establishing that her demotion was arbitrary, discriminatory or based on improper considerations. The decision of the Board of School Directors of the Carlynton School District to demote Dr. Lancaster is affirmed. However, the demotion was not effective until June 22, 2005, which is the day that the Board issued its written decision upholding the demotion. Thus, Dr. Lancaster is hereby awarded back pay in the amount that she would have received but for the demotion for the period of time between August 1, 2004 and June 22, 2005, during which time she was demoted without a hearing.

\_\_\_\_\_/s/\_\_\_\_\_  
Gerald Zahorchak, D.Ed.  
Acting Secretary of Education

Dated Mailed: January 11, 2006