

STATE BOARD OF EDUCATION
STATE OF GEORGIA

LINDA L. WEST, :
 :
 Appellant, :
 :
 vs. : CASE NO. 1978-28
 :
 NEWTON COUNTY BOARD OF :
 EDUCATION, :
 :
 Appellee. :

O R D E R

THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

DETERMINES AND ORDERS, that the Findings of Fact and Conclusions of Law of the Hearing Officer are made the Findings of Fact and Conclusions of Law of the State Board of Education and by reference are incorporated herein, and

DETERMINES AND ORDERS, that the decision of the Newton County Board of Education herein appealed from, is hereby affirmed.

Mrs. Huseman abstained.

Mr. Hendricks and Mr. Foster were not present.

This ~~21st~~ day of December, 1978.

JKV



THOMAS K. VANN, JR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

LINDA L. WEST,	:	
	:	
Appellant,	:	CASE NO. 1978-28
	:	
vs.	:	
	:	
NEWTON COUNTY BOARD OF	:	REPORT OF
EDUCATION,	:	HEARING OFFICER
	:	
Appellee.	:	

PART I

SUMMARY OF APPEAL

This is an appeal by Linda West (hereinafter "Appellant"), a tenured teacher, from a decision by the Newton County Board of Education (hereinafter "Local Board") not to renew her teaching contract on the grounds of (1) insubordination, (2) willful neglect of duty, and (3) unprofessional conduct. Appellant appeals the decision on the grounds that (1) the Local Board failed to use the established deficiency notification procedures and thereby denied due process; (2) the Local Board was estopped from alleging deficiencies in performance prior to the 1977-1978 school term because of the failure to use the established deficiency notification procedure; (3) the non-renewal was based on Appellant's constitutionally protected exercise of

merely found that Appellant stated that she did not agree with the program planned for spelling and was requested on three separate occasions to stop her comments.

A review of the record submitted shows that there was some evidence to support each of the findings of the Hearing Examiner for the Professional Practices Commission. Although there was conflicting testimony presented concerning several of the matters, if there is any evidence to support the findings of a local board of education, the State Board of Education will not disturb those findings on review. Antone v. Greene County Board of Education, Case No. 1976-11.

PART III

CONCLUSIONS OF LAW

Appellant contends that the failure of the school system to use the deficiency reporting system set forth in the Teacher's Handbook resulted in a denial of due process for Appellant in that it was an established procedure which she should have been able to rely on to determine if her actions were jeopardizing her position. Since she had not received any deficiency notices, the Local Board had denied her the opportunity to correct any deficiencies. Additionally, the failure to use the deficiency procedure and the subsequent renewal of her teaching contract for each of the prior years estopped the Local Board from making any

charges relating to deficiencies in the prior years.

Although the deficiency notice process was established as a means of notifying the teachers of their deficiencies, it does not appear that the procedures precluded the Local Board from acting in the absence of such notices even if the process was being used. The Teacher's Handbook states that a principal "should" fill out a deficiency notification. There are no requirements imposed or hearing procedures established, or any additional rights created for the teachers. The procedure appears to be a management tool that has not been used by the school system. The Hearing Officer, therefore, concludes that the Local Board did not deny Appellant any of her due process rights, nor was the Local Board precluded from relying on any of the past actions of Appellant in deciding not to renew her contract.

Appellant also claims that the reason for her nonrenewal was because she expressed her opinion concerning an educational program at a public meeting. The findings of the Hearing Examiner for the Professional Practices Commission, however, did not explore in any detail the public utterances made by Appellant, and such public utterances did not form the basis for the Examiner's recommendation that Appellant's contract not be renewed. The Hearing Officer, therefore, concludes that Appellant was

not denied her right to exercise her first amendment rights of freedom of speech.

PART IV

RECOMMENDATION

Based upon the above findings and conclusions, the record submitted, and the briefs and oral argument of counsel, it is the opinion of the Hearing Officer that the Newton County Board of Education afforded Appellant all of her due process rights and that she was not denied any rights of freedom of speech. It is also the opinion of the Hearing Officer that the Newton County Board of Education acted within its power and authority in not renewing Appellant's teaching contract. The Hearing Officer, therefore, recommends that the decision of the Newton County Board of Education be upheld.

L. O. BUCKLAND
Hearing Officer