

STATE BOARD OF EDUCATION
STATE OF GEORGIA

ANN WYNNE, :
 :
 Appellant, :
 :
 vs. : CASE NO. 1978-37
 :
 THE BOARD OF EDUCATION FOR :
 THE CITY OF SAVANNAH AND :
 THE COUNTY OF CHATHAM, :
 :
 Appellee. :

O R D E R

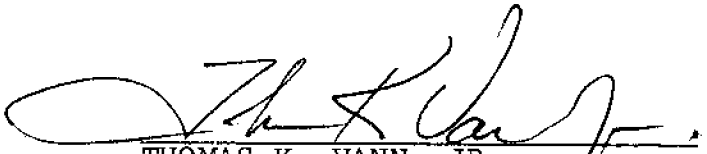
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

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 Board of Education for the City of Savannah and the County of Chatham herein appealed from is hereby affirmed.

Mr. Smith was not present.

This 8th day of March, 1979.


THOMAS K. VANN, JR.
Vice Chairman for Appeals

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PART I

SUMMARY OF APPEAL

This is an appeal by Ann Wynne (hereinafter "Appellant") from a decision by the Board of Public Education for the City of Savannah and the County of Chatham (hereinafter "Local Board") to dismiss her from her position as a librarian. The Local Board's decision was made because of its determination that Appellant had failed to maintain the necessary educational training and had failed to fulfill the terms of the contract she had signed. Appellant appealed to the State Board of Education on the grounds that (1) the school administrators did not have the authority to impose additional educational training requirements, and (2) the grievance procedures of the school system denied her due process

rights. The Hearing Officer recommends that the decision of the Local Board be upheld.

PART II
FINDINGS OF FACT

This matter was heard by a tribunal of the Professional Practices Commission on September 19, 1978. The Professional Practices Commission issued its report on November 3, 1978. The Local Board met and made its decision on November 15, 1978. Appellant filed her appeal to the State Board of Education of December 15, 1978.

The Professional Practices Commission made findings of fact and recommended the termination of Appellant's contract. Among the findings of the Professional Practices Commission were the following:

a. Findings By Professional Practices Commission

Appellant was given written notice on August 31, 1978, that she was being recommended for termination because of her failure to secure and maintain necessary educational training, and her failure to fulfill the terms of her contract. She was also given the names of the witnesses who would testify against her. Appellant was certified as a teacher-librarian.

She had been employed by the school system since 1953. The Local Board had a policy which required periodic local in-service study by all professional employees. The policy further required the employees to participate in any in-service program approved by the Local Board, or by a school or by a department. The administrative staff determined that there was a need to upgrade the media specialists and the deficiencies of the librarians-media specialists could be corrected by additional training. The administrative staff instituted a program which, when applied to Appellant, required Appellant to move forward toward a master's degree by obtaining an additional fifteen hours of credits during the 1977-1978 school year and ten hours of credits after the 1977-1978 school year and before the 1981-1982 school year.

Appellant was informed of, and understood, the additional education requirements of 15 hours during the 1977-1978 school year. Appellant, however, did not obtain the additional 15 hours of course study during the 1977-1978 school year. Appellant was then given a contract for the 1978-1979 school year which stated:

"This contract contingent upon presenting full certification of at least fifteen quarter hours earned from September 1, 1977, to September 1, 1978."

The Appellant, however, did not meet the requirement of the contract language.

of the administration's actions was ratifying the decision to increase the educational requirements of the professional employees. It was, therefore, not necessary for the increased requirements to be formally adopted prior to Appellant being required to obtain the additional hours called for by the administration. The Professional Practices Commission found that the increased requirements mandated by the administration were consistent with the policy statement

b. Professional Practices Commission Conclusion and Recommendation

The Professional Practices Commission concluded that Appellant was guilty of both charges. The Commission recommended termination of Appellant's contract of employment.

PART III
CONCLUSIONS OF LAW

During the hearing and on appeal, Appellant raised the issue of whether the Local Board had delegated its authority to establish the educational requirements of professional employees to the school administration. Appellant argues that the effect of the administration's actions was to abolish the position of librarian and substitute the position of media specialist without any authority from the Local Board. Additionally, Appellant has raised the issue that she was not permitted to follow the grievance procedures established by the Local Board. She therefore was not able to present her grievance to the Local Board. Instead, the grievance procedure was administratively terminated and then dismissal proceedings were instituted. The Professional Practices Commission reviewed the merits of whether Appellant had completed the

record to support the decision of the Local Board on this issue, the State Board of Education cannot reverse the decision on this issue alone. Antone v. Greene County Board of Education, Case No. 1976-11. Additionally, there does not appear to be any error of law in the Local Board permitting the school administration to suggest and implement the increased educational requirements for the professional staff.

When Appellant was offered her contract for the 1978-1979 school year, she signed the contract and returned it to the administration. Shortly thereafter, she instituted a grievance procedure to protest the fact that she was being required to take additional courses when she held a valid DT4 certificate and had met the local in-service requirements established by the Local Board.

Her grievance, in particular, stated:

"I want my contract for my same position which I have held for 12 years with satisfactory recommendations."

An initial hearing was held on June 19, 1978 and resulted in a recommendation that the matter be presented to the Board of Education since it involved a policy matter. The next higher level hearing was held on June 22, 1978 and was concluded with the report that Appellant had been presented a copy of the contract she signed on April 24, 1978 and

"Since the remedy she desired was presented [,] this, . . . terminates the grievance."

Appellant, therefore, was not given an opportunity to present her arguments concerning the added educational requirements to the Local Board. The grievance procedure was terminated with a decision which ostensibly met Appellant's demands. However, at the end of the next month, she was given notice that a recommendation would be made that she be terminated because of her failure to maintain her educational qualifications and for breach of contract.

Whatever the merits are in Appellant's position regarding the grievance procedure, the matter was not raised at the hearing before the Professional Practices Commission. As a result, the record contains only slight evidence concerning the grievance procedure and neither the Professional Practices Commission nor the Local Board had an opportunity to make any rulings concerning the procedures that were followed. Since the issue was not raised by Appellant at the hearing before the Professional Practices Commission, it cannot be raised for the first time on appeal to the State Board of Education. See, Hobby v. Tift County Board of Education, Case No. 1977-6. Both the Professional Practices Commission and the Local Board should have been given an opportunity to inquire into the matter

and make a decision. Since Appellant did not previously raise the issue, it is the opinion of the Hearing Officer that it cannot now stand as the basis for overruling the decision of the Local Board.

PART IV

RECOMMENDATION

Based upon the foregoing findings and conclusions, the record submitted, and the letters, briefs, and arguments received, it is the opinion of the Hearing Officer that the Local Board ratified any actions of the school administration so that there was not an improper delegation of authority by the Local Board. The Hearing Officer, therefore, recommends that the decision of the Board of Public Education for the City of Savannah and the County of Chatham be upheld.

L. O. Buckland

L. O. BUCKLAND
Hearing Officer