

being insubordinate during an evaluation conference with the principal. The teacher protested the letter of reprimand and requested a hearing before the Local Board.

The Local Board turned the matter over to the Professional Practices Commission for hearing. A tribunal was convened on April 26, 1982, and evidence concerning the letter of reprimand was heard. On May 27, 1982, the Professional Practices tribunal issued its report and found that the letter of reprimand had been properly issued by Appellant. On June 7, 1982, the Local Board voted on whether to uphold the recommendation of the Professional Practices Commission tribunal. The vote was evenly divided among the Local Board members and the motion failed to receive the required majority vote. As a result, the Local Board ordered the removal of the letter of reprimand from the teacher's files.

The only issues to be resolved in this appeal are whether the Local Board had the authority to revoke the letter of reprimand, and whether revocation of the letter of reprimand was an abuse of authority. On the first issue, there is little question that the Local Board had the authority to remove the letter of reprimand from the teacher's file. Ga. Code Ann. §32-2105c specifically provides that if a superintendent issues a letter of reprimand to a teacher and the teacher

appeals to the local board of education, then

"The [local] board shall have the right to either affirm the decision of the superintendent or to reverse it. If the decision of the board is to reverse it, said letter of reprimand shall be removed from said teacher's ... permanent personnel file."

The Hearing Officer, therefore, concludes that the Local Board had the authority to reverse Appellant's decision to issue a letter of reprimand to the teacher.

The second issue is whether the Local Board abused its authority by removing the letter of reprimand from the teacher's file. A letter of reprimand is in the nature of a disciplinary action against a teacher, and a local board has the responsibility of determining what discipline actions should be taken against employees. Once the matter was appealed to the Local Board, Appellant did not have any authority to determine whether a letter of reprimand was the proper disciplinary action to be taken. By its nature, a letter of reprimand establishes that the actions of the teacher do not create any immediate danger to the administration of the local school system. As a result, the Hearing Officer concludes that, regardless of the evidence produced at a hearing as to why a letter of reprimand was issued, a local board of education does not abuse its discretion by voting not to affirm a letter of reprimand. The Hearing Officer does not see where the failure of a local

board of education to take action in the absence of any danger to the administration of the local school system would constitute an abuse of discretion or authority. It is the duty of local boards to make decisions concerning the discipline of employees. A difference of opinion between a local board and a superintendent over the serverity of the discipline simply does not constitute a valid basis for charging the local board with abuse of discretion. The local board is the deciding body and must make the decisions. The superintendent makes the charges and the recommendations, but does not have the authority to take the decision-making function away from the local board. If a local board decides to impose a lesser sanction than that recommended by a superintendent, then the local board is fulfilling one of its responsibilities which is a part of the purpose of affording an employee a hearing. The Hearing Officer, therefore, concludes that the Local Board did not abuse its discretion or authority by voting not to affirm Appellant's issuance of the letter of reprimand.

PART III

RECOMMENDATION

Based upon the foregoing findings and conclusions, the record submitted and the briefs of the parties, the Hearing

Officer concludes that the Local Board had the authority not to affirm Appellant's issuance of a letter of reprimand to a teacher, and that the Local Board did not abuse its authority by voting not to affirm Appellant's action. The Hearing Officer, therefore, recommends that the decision of the Local Board be sustained.

L. O. Bucklant

L. O. BUCKLANT
Hearing Officer