STATE BOARD OF EDUCATION

STATE OF GEORGIA

ELAINE MORTON,	)	
Appellant,	)	
v.	)	CASE NO. 1985-49
GRIFFIN-SPALDING 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 Griffin-Spalding County Board of Education herein appealed from is hereby sustained.

Mr. Owens was not present.

This 13th day of February, 1986.

LARRY A. FOSTER, SR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

ELAINE MORTON,	)	
	)	
Appellant,	)	CASE NO. 1985-49
	)	
v.	)	
	)	
GRIFFIN-SPALDING COUNTY BOARD OF EDUCATION,	)	
	)	
	)	RECOMMENDATION OF
Appellee.	)	STATE HEARING OFFICER

PART I

SUMMARY OF APPEAL

This is an appeal by Elaine Morton (hereinafter "Appellant") from a decision of the Griffin-Spalding Board of Education (hereinafter "Local Board") not to renew her teaching contract for the 1985-86 school year on grounds of incompetency and insubordination. Appellant contends on appeal that her rights to due process were violated, that the charges stated to her did not constitute adequate grounds for non-renewal, the Local Board erred in its rulings on objections at the hearing, and the Local Board erred by failing to make findings of fact. The Hearing Officer recommends the decision of the Local Board be sustained.

PART II

FACTUAL BACKGROUND

Appellant was notified by letter dated April 10, 1985 that she had not been recommended to receive a renewed contract for the 1985-86 school year. She subsequently requested a written

in the classroom. While the testimony from the students was not always consistent, many of the students did testify that Appellant cursed in the classroom.

An assistant principal of the school at which Appellant taught in 1983-84 testified that she had a conference with Appellant in 1983 concerning Appellant's use of improper language and another assistant principal who was at Appellant's school for the 1984-85 school year testified that Appellant, in a conference with the principal and himself during September, 1984, admitted using

statement of the reasons for her nonrenewal and further requested a hearing pursuant to her tenure[1] rights under O.C.G.A. §20-2-943. Appellant was given a statement of the reasons for nonrenewal by letter dated April 29, 1985 in which she was told her contract was not being renewed for incompetency and insubordination. In further detailing the charge of incompetency, the letter stated that Appellant: (1) failed to observe instructions and curriculum practices; (2) violated procedures and standards; (3) failed to obey rules and regulations during the 1983-84 and 1984-85 school years; (4) used vile, uncouth, profane and vulgar language to the students; (5) failed to maintain proper classroom management; (6) exhibited anger to students; (7) failed to use prescribed teaching methods; and (8) failed to adhere to designated school policies and procedures, plus other related allegations. In further detailing the charges of insubordination, the letter stated that Appellant refused to cease using inappropriate language after being instructed not to use such language, and failed to use classroom instruction techniques she was told to use, in addition to other related allegations. The letter further listed the names of the witnesses who would be called to testify against Appellant and a brief summary of their intended testimony.

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[1] After a specified period of employment, O.C.G.A. §20-2-942 grants teachers certain rights which are commonly called "tenure" rights, even though the statute doe snot use the term "tenure."

as opinions that Appellant was not receptive to the administration's leadership. The Hearing Officer is of the opinion that admitting the evaluations and letter did not constitute reversible error.

Appellant's third contention on appeal is that the Local Board erred in failing to dismiss certain specific charges which it contends could not support the statutory charge of incompetence. Appellant contended at the hearing that these specific statements were causes for nonrenewal rather than charges.

concerning the use of improper language. There is no requirement that Appellant be given notice of the exact day, time, and statements the students attributed to Appellant. Thus, with respect to the charges of insubordination and incompetency for continuous use of improper language in the classroom, the notice was sufficient, and the Local Board met its due process obligations to Appellant with respect to notice of the charge.

Appellant's second contention on appeal is that the Local Board erred in ruling on objections raised at the hearing. Appellant contends opinion statements contained in evaluations of Appellant for the 1983-84 and 1984-85 school years were not admissible under the business records exception to the hearsay rule and that the opinion and self-serving statements contained in a letter from the principal to the superintendent were not admissible under the business records exception to the hearsay rule.

The Local Board did not err in allowing in the evaluations and the letter and, even if it had been error for the Local Board to allow the opinion statements to be considered, no harm occurred. The hearing before the Local Board is not subject to all of the formal requirements of a criminal or civil action. The individuals who conducted the evaluations and the author of the letter were present to testify and were cross-examined by Appellant's attorney. The evaluations did not significantly impact the issue of improper use of language and the letter provides facts regarding the improper use of language in the classroom as well

The State Board of Education has considered the issue of whether local boards are required to make findings of fact numerous times, each time deciding that local boards are not required to do so. Kelson v. The Board of Public Education for the City of Savannah and the County of Chatham, Case No. 1982-15; Hicks v. Dougherty Co. Bd. of Ed., Case No. 1980-30; Wright v. Dodge Co. Bd. of Ed., Case No. 1978-4. The issue has also been raised with the Courts and decided adversely to Appellant. Cf., Ransum v. Chattooga Cnty Bd. of Ed., 144 Ga. App. 783 (1978).

Appellant has not provided any new statutory or case law which indicates that the position of the State Board of Education should change.

PART IV

RECOMMENDATION

Based upon the foregoing discussion, the record presented, and the briefs and arguments of counsel, the Hearing Officer is of the opinion the Local Board did not violate Appellant's right to due process, that the objections raised did not constitute grounds for reversal, and the Local Board was not required to make findings of fact. The Hearing Officer, therefore, recommends the decision of the Local Board be

SUSTAINED.

L. O. Buckland

L. O. BUCKLAND
STATE HEARING OFFICER