

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>ROBERT W. FAVER,</b>	)	
	)	
<b>Appellant,</b>	)	<b>CASE NO. 1986-3</b>
<b>v.</b>	)	
	)	<b>ORDER</b>
<b>FAYETTE COUNTY</b>	)	
<b>BOARD OF EDUCATION,</b>	)	
	)	
<b>Appellee.</b>	)	

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 Fayette County Board of Education herein appealed from is hereby sustained.

This 8th day of May, 1986.

LARRY FOSTER, SR.  
Vice Chairman for Appeals



Appellant, and a written statement by another student that, while counseling the student, Appellant said he could get the student and his girlfriend a motel room at a motel where Appellant worked nights, and the fact that Appellant did provide the student with a motel room. At the hearing, two assistant principals and the director of personnel testified that the three students had written the statements in confirmation of oral statements made to the administrators by the students. The three students testified as witnesses for the Local Board, but refuted their previous written statements by saying they were under pressure from the school officials when they wrote the statements. The two students who wrote that Appellant had observed them drinking beer testified they did share one beer at the wrestling match but that Appellant did not see them drink it even though he was sitting next to them. The student who wrote the statement regarding the motel room testified he did get the motel room from Appellant but that he had not been told by Appellant he could get the room. The student testified that he went to the motel on his own accord and offered to pay for the room, but Appellant said he would take care of it, meaning Appellant did not charge him for the room.

Appellant called one witness, a third student who had attended the wrestling match. That witness testified that Appellant was not present while the students drank the beer at the wrestling match.

The students involved in the beer drinking were 19 and 18 years old. At the time of the incident, the 19 year old was of legal drinking age. The student involved in the motel room situation was 19 years old and his girlfriend was 20 years old.

Also, during the hearing, testimony was elicited that the personnel director had ordered the students involved not to talk with Appellant and had ordered Appellant not to talk with the students.

The Local Board voted to terminate Appellant at the close of the January 6, 1986 hearing.

Appellant filed this appeal on February 5, 1986.

### **PART III**

#### **DISCUSSION**

First, Appellant contends on appeal that there was insufficient evidence to support the decision of the Local Board. Appellant contends that the written statements entered into evidence were statements made under coercion and thus should not be considered. Appellant further contends that, because the students' testimony did not support their previous written statements, there was insufficient evidence to support the charges.

The State Board of Education is bound to affirm the decision of the Local Board of Education if there is any evidence to sustain the Local Board's decision, absent an abuse of discretion or a violation of law. See, Ransum v. Chattooga Cnty Bd. of Ed., 144 Ga. App. 783 (1978); Antone v. Greene Cnty. Bd. of Ed., Case No. 1976-011.

Appellant's first contention, that there is insufficient evidence to support the Local Board's decision, does not warrant a reversal of the Local Board's decision. The testimony of one student was that he had asked Appellant which motel he worked at evenings and Appellant told him. The student testified further that he went to that motel room with his girlfriend and Appellant gave a room to the student free of charge. While Appellant may not have had a responsibility to refuse the student a room, providing the room to the student free of charge is evidence the Local Board could have considered to determine Appellant encouraged the student to violate a valid state law, or evidence which provided other good and sufficient cause for Appellant's termination. The act of sexual intercourse between unmarried persons is a

misdemeanor. (O.C.G.A. §16-6-18.) The Local Board could have determined from the student's testimony that when Appellant informed the student which motel he worked at, and then provided the student a free room, he was encouraging violation of O.C.G.A. §16-6-18. Additionally, the Local Board could have found that such conduct was other good and sufficient cause for terminating Appellant's contract.

Appellant's second contention on appeal is that he was denied his due process rights because the Local Board's personnel manager issued a directive that Appellant not talk with any of the student witnesses against him. This contention also does not warrant reversal of the Local Board's decision. Appellant was provided with the names of the witnesses against him and a summary of their expected testimony. Appellant was given an opportunity to cross-examine those witnesses. The directive was issued to prevent Appellant from pressuring any of the students. Appellant has not cited any law as to why this directive denying a pre-hearing conference with witnesses against him was a violation of his due process rights. Appellant did not provide any evidence that he objected to the directive by requesting a pre-hearing conference and the directive appeared to be reasonable in light of the circumstances.

#### **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 there was evidence to support the decision of the Local Board, and Appellant's due process rights were not violated by the Local Board. The Hearing Officer, therefore, recommends the decision of the Local Board be sustained.

L. O. BUCKLAND  
State Hearing Officer