STATE BOARD OF EDUCATION

STATE OF GEORGIA

JESSICA NEVILLE,	)	
	)	
Appellant,	)	
v.	)	**CASE NO. 1986-10**
	)	
	)	
CHATHAM COUNTY	)	
BOARD OF PUBLIC EDUCATION,	)	
Appellee.	)	

ORDER

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 Chatham County Board of Public Education herein appealed from is hereby sustained.

Mrs. Jasper and Mr. Carrell were not present.

This 12th day of June, 1986.

Larry A. Foster, Sr.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JESSICA NEVILLE,	)	
Appellant,	)	
	)	**CASE NO. 1986-10**
v.	)	
	)	
CHATHAM COUNTY BOARD OF PUBLIC EDUCATION,	)	
	)	
	)	**RECOMMENDATION OF**
Appellee.	)	**HEARING OFFICER**

PART I

SUMMARY OF APPEAL

This is an appeal by Jessica Neville (hereinafter "Appellant") from a decision of the Chatham County Board of Education (hereinafter "Local Board") terminating Appellant's contract for violating applicable statutes and board policy and procedure, and for good and sufficient cause. Appellant contends on appeal that the hearing below was fundamentally unfair, there was no evidence to support the Local Board's decision, and the statement of charges provided Appellant was legally insufficient. The Hearing Officer recommends that the decision of the Local Board be sustained.

PART II

FACTUAL BACKGROUND

Appellant was a kindergarten teacher at the Pennsylvania Avenue School in Savannah in the fall of 1985. She had been a teacher for thirty-four years, the last two of which were in Schools operated by the Local Board. She was notified by letter dated January 21, 1986, that her teaching contract was being recommended for termination. Numerous grounds for termination were listed, any and all of which were stated to be good and sufficient cause for terminating Appellant's contract. A list of witnesses and a summary of their expected testimony was also a part of this letter. The summary of the expected testimony provided that a witness would testify regarding an incident which occurred on

December 12, 1985 where the Appellant dragged a student by the wrists down the hall in the Pennsylvania Avenue School. Additionally, Appellant was cited for failure to appropriately control students' behavior as cited in correspondence and evaluations given Appellant during the time she taught with the Local System.

A hearing was held on February 4, 1986 and continued to February 14, 1986 based upon Appellant's request for more time to prepare her case. At the hearing on February 14, 1986, Appellant, through her attorney, objected to the lack of specificity of the charges and to the use of the Board attorney to advise the Board prior to its rulings on evidentiary matters. Appellant also testified denying that she dragged the student down the hall in an improper fashion.

The school administration presented a witness who testified Appellant ran down the hall pulling the Student by the wrists and sometimes pulling the Student off the floor. Appellant, in her own testimony, acknowledged she had received letters and evaluations commenting on her problems in controlling her students.

At the close of the hearing, the Local Board found, first, that Appellant used undue and inappropriate force to control a child by grasping the child by his wrist and dragging him down the hallway and into his classroom; second, that the evidence demonstrated Appellant's recurring pattern of failure to maintain discipline and to insure the safety of children for whom she was responsible; and third, Appellant exhibited unprofessional conduct in failing to maintain discipline and in using force to control a student. The Local Board concluded that Appellant's conduct violated applicable statutes, board policy and procedure, and constituted good and sufficient cause for termination.

Appellant filed this appeal on March 14, 1986.

PART III

DISCUSSION

Appellant contends on appeal that the hearing below was fundamentally unfair and there was no evidence to support the Local Board's decision. Appellant's contention, that the hearing below was unfair, rests on the arguments that the notice she received did not give the reasons for her discharge in sufficient detail for her to be able to defend against the charges and the school board attorney served as the hearing officer. Appellant contends there was no evidence to support the Local Board's decision because the only evidence towards the charges was that a witness saw Appellant drag the child down the hall. Appellant argues that because of the Student's temper tantrum, she had no choice but to take the student in tow and return him to the classroom and doing so presents no evidence warranting her termination.

Appellant's contention that she was not given sufficient notice upon which to prepare her defense does not provide grounds for reversal of the Local Board's decision. The notice given Appellant did provide the name of a witness and stated the witness would testify regarding the incident where Appellant allegedly dragged the student down the hall. The notice also cited Appellant's failure to appropriately control students' behavior and manage students as cited in correspondence of specific dates. These statements in the charge letter were clear enough for Appellant to understand she was being charged with an inability to maintain discipline and an inability to discipline properly when she was involved with the student in the hall. The Local Board's findings were based upon testimony at the hearing which was consistent with the statements in the charge letter. The notice was adequate to allow Appellant to defend against the charges.

Appellant's contention that there was no evidence to support the Local Board's decision also does not warrant reversal of the Local Board's decision. The State Board of Education is bound to affirm the decision of the Local Board of Education if there is any evidence to support that decision. See, Ransum v. Chattooga Cnty Bd. of Ed., 144 Ga. App. 783 (1978); Antone v. Greene Cnty Bd. of

Ed., Case No. 1976-11. In this case there is clearly some evidence that would authorize the Local Board to find Appellant may have improperly handled a student and failed to properly discipline students. This evidence would authorize the Local Board to determine good and sufficient cause existed for terminating Appellant's contract. The Local Board, as the trier of fact, is the sole body with the authority to determine the incident which occurred was severe enough to warrant termination. Appellant's final contention, that the Local Board attorney served as the hearing officer, also does not warrant reversal of the Local Board's decision. This contention is not supported by the facts, as the Local Board attorney did not serve as the hearing officer. The Local Board chairman issued the rulings in the hearing as authorized under O.C.G.A. § 20-2-940. The portion of that code section authorizing use of a disinterested member of the State Bar of Georgia is permissive and was not exercised in this case. Additionally, the Local Board Attorney did not represent the administration in presenting the case to the Local Board. Another attorney was employed to present the Administration's case who was not a member of the law firm which represented the Local Board. Thus, Appellant has not shown that the Local Board Attorney had any bias, even if he had acted as the hearing officer.

PART IV

RECOMMENDATION

Based upon the foregoing discussion, the record presented, and the brief and arguments of cousel, the Hearing Officer is of the opinion there was evidence to support the decision of the Local Board and Appellant was not denied due process. The Hearing Officer, therefore, recommends the decision of the Local Board be

SUSTAINED.

L. O. BUCKLAND
Hearing Officer