

STATE BOARD OF EDUCATION

STATE OF GEORGIA

IN RE: THERESIA COPELAND,)
Petitioner,) CASE NO. 1989-17

ORDER

THE STATE BOARD OF EDUCATION, after due consideration of the record submitted, the recommendation of the Special Master, and after a vote in open meeting,

DETERMINES AND ORDERS, that the State Board of Education adopt the Special Master's findings of facts, conclusions of law, and the recommendation, and hereby denies Petitioner's request upon the unanimous vote of Mr. Sears, Mr. Owens, Mrs. Baranco, Mr. Foster, Mr. Smith, Mr. Abrams, Mr. Lathem and Mr. Carrell. Mrs. Cantrell was not present.

This 14th day of September, 1989.

John M. Taylor
Vice Chairman For Appeals

STATE BOARD OF EDUCATION
STATE OF GEORGIA

| | | |
|----------------------------------|---|--------------------------|
| IN RE: THERESIA COPELAND, | : | |
| | : | |
| Petitioner, | : | CASE NO. 1989-17 |
| | : | |
| | : | RECOMMENDATION OF |
| | : | SPECIAL MASTER |

PART I

SUMMARY

This is a petition by Theresia Copeland (“Petitioner”) to permit her to have another Teacher Performance Assessment Instrument (“TPAI”) evaluation after having waived her first two evaluations and not passing four subsequent evaluations. The Georgia Department of Education has recommended that Petitioner not be granted another evaluation because the evaluations were conducted according to established procedures and there are no mitigating circumstances. The Special Master recommends denial of Petitioner’s request.

PART II

FACTUAL BACKGROUND

Petitioner is a physical education teacher who has taught for four years. In Georgia, beginning teachers have to obtain minimum competency scores on the TPAI within three years after they begin teaching. If they do not obtain the minimum scores, then they can no longer teach in Georgia. During the three years, the teachers have an opportunity to be assessed twice per year during their first three years of teaching for a total of six possible assessments. A teacher has the right to waive any of the assessments, but a voluntary waiver

]

counts as one of the six available assessments.

The TPAI is divided into eight areas of competence. If a teacher passes any competence during an assessment, then the teacher is no longer assessed on that competence in future assessments.

The various competencies are composed of “indicators”. For example, Competency III, entitled “Demonstrates acceptable written and oral expression and knowledge of the subject”, has the following four indicators:

Indicator 7. Uses acceptable written expression

Indicator 12. Uses acceptable written expression with learners.

Indicator 13. Uses acceptable oral expression
Indicator 14. Demonstrates command of school

subject being taught.

When an assessment is made, three “data collectors” make the actual assessment. The data collectors are teachers and administrators who have been trained to conduct the assessments. One of the three data collectors has to come from the teacher’s school, and one of the data collectors has to have the same certificate as the teacher. The

teacher has to submit to the data collectors a portfolio that outlines a unit of instruction. The data collectors then observe the teacher in the classroom as the teacher presents the unit of instruction contained in the portfolio. Each data collector rates the teacher's compliance with each indicator according to a series of descriptors that have been established by the Georgia Department of Education. Thus, a rating of one indicates that none of the descriptors was evident, a rating of two indicates that one of the descriptors was evident. The highest rating, five, indicates that four of the descriptors was evident. The descriptors are statements of actions that the data collectors should observe, either in the classroom or in the teacher's portfolio. There are 30 total indicators associated with the eight competencies. With three data collectors assessing each indicator, a teacher thus has 90 possible points that can be accumulated on each TPAI assessment.

Petitioner in this case waived her first two assessments. On her waiver form, Petitioner stated that she was not prepared.

She participated in the next four assessments and obtained passing scores on all but Competency II, "Obtains Information About the Needs and Progress of Learners". Competency II has three indicators, Numbers 5, 6, and 11.

3

Petitioner did not receive a passing score on either Indicator 5 - "Specifies or Selects Procedures or Materials for Assessing Learner Performance on Objectives", or Indicator 6 - "Uses Systematic Procedures to Assess All Learners". In her four evaluations, Petitioner received 12 of 36 possible minimum points, i.e., 33-1/3%, for Competency

II. On Indicators 5 and 6, Petitioner received only 3 of 24 possible minimum points, i.e., 12-1/2%.

Petitioner filed a request for a hearing with the Department of Education to ask for the opportunity to undergo another assessment. A hearing was held before a Department hearing officer.

At the hearing, Petitioner testified that she had waived her first two assessments because she was preparing for the Teacher Competency Test and was unable to prepare for both tests at the same time. She also testified that she had to teach in a hallway during her second assessment and did not want to be assessed with limited facilities. Petitioner also testified that she and two other teachers had prepared portfolios that were substantially the same and they had presented their materials in the same manner, but the other teachers had passed while Petitioner had not passed. Petitioner also presented her portfolio to trained data collectors who told her the portfolio would pass. Petitioner's principal, a trained data collector who had

4

assessed Petitioner on her first assessment, testified that Petitioner was a very competent teacher. Petitioner's principal also testified that Petitioner had sought extensive help in preparing for the assessments.

The Department hearing officer ruled that Petitioner had voluntarily waived her first two assessments, the assessments had been properly made, and Petitioner should not have another assessment. Petitioner then filed this appeal to the State Board of Education.

PART III

DISCUSSION

In reviewing petitions concerning the TPAI, the State Board of Education has original

jurisdiction rather than appellate jurisdiction. It is thus not bound either by the decision of a department hearing officer or a special master's recommendation.

In this case, Petitioner claims that the TPAI is invalid because the rules and regulations relating to it were not promulgated in accordance with the requirements of the Georgia Administrative Procedures Act. See, Kitchens v. State Board of Education, Case No. D-54773 (Fulton Cnty. Sup. Ct., 1988) (on appeal). The State Board of Education has taken the position that the regulations concerning the TPAI were properly adopted. The Special Master, therefore,

5

concludes that Petitioner's challenge does not constitute a basis for granting another assessment.

Petitioner next claims that she should be granted another assessment opportunity because she was preparing for the Teacher Competency Test when she waived her first two assessments. Additionally, she waived her second assessment because she was teaching in a hallway and did not want to be assessed with such limited facilities. The Department of Education pointed out that all new teachers face the same circumstances, i.e., they have to prepare for the Teacher Competency Test and the TPAI at the same time. Also, the indicators Petitioner failed to pass are not influenced by the facilities available to a teacher. In addition, the Department of Education takes the position that the TPAI does not require any additional work on the part of a teacher.

The Department's argument that all beginning teachers are faced with the same circumstances establishes that Petitioner's circumstances are not unusual. Teachers are given three years and six opportunities to establish that they are functioning at the barest minimum

acceptable level of competency. The test, therefore, has been designed to accommodate temporary personal influences that may exist at the time of any single assessment. The Special Master, therefore, concludes that the fact that Petitioner was

6

engaged in preparing for the Teacher Competency Test does not establish a basis for granting her another assessment opportunity.

Petitioner next claims that she was unfairly assessed because the TPAI relies upon subjective evaluations. She points to three examples to establish that the TPAI relies upon subjective evaluations. First, Petitioner testified that she obtained conflicting advice from trained data collectors concerning her deficiencies. Secondly, Petitioner's principal, who is a trained data collector, evaluated Petitioner as a very competent teacher. Thirdly, Petitioner claims that she failed to pass Competency II only because she gave her students a written physical education examination, rather than having her students demonstrate the skills they had learned. Petitioner maintains that the TPAI instructions do not require a demonstration, and that two other teachers, who gave written physical education examinations rather than demonstrations, passed their assessments.

The specific advice that Petitioner obtained concerned whether she had to prepare a portion of her assessment in full or in part. The Department points out that the advice Petitioner received was correct because the TPAI provides for alternative approaches and Petitioner was free to select either approach. Petitioner prepared for assessment of all three indicators of Competency II. She cannot, therefore,

claim that the advice she received was detrimental to her preparation. The Special Master, therefore, concludes that the fact that Petitioner received advice concerning alternative approaches does not establish that she was unfairly evaluated.

There was no evidence presented concerning the two teachers who passed their assessments. The teachers may not have received points because they provided their students with written examinations, but they were still able to pass the assessment because they accumulated enough points in other areas of the assessment. The Special Master, therefore, concludes that Petitioner failed to establish that she was assessed differently than any other teacher.

Although Petitioner's principal is a trained data collector and testified that Petitioner is a very competent teacher, ten other data collectors determined that she did not possess the minimum levels of competence necessary to address the needs and progress of her students. She managed to accumulate only 1/3 of the possible points. On her last assessment, Petitioner received only 16.7% of the total possible points on Competency II. During the four assessments, Petitioner has consistently failed to pass Competency II; her highest score was 55.6% on her fourth assessment. Thus, Petitioner has demonstrated competency in all other

areas, but she has not shown that she is competent in determining the needs of her students and assessing their progress.

RECOMMENDATION

Based upon the foregoing, the record presented, and the briefs and arguments submitted, the Special Master is of the opinion that Petitioner has not demonstrated any valid reason for being permitted to undergo another assessment. The Special Master, therefore, recommends that Petitioner's request be denied.

This 5th day of September, 1989.

L. Buck Special Master