

STATE BOARD OF EDUCATION
STATE OF GEORGIA

JERALD CARDIN,	:	
	:	
Appellant,	:	CASE NO. 1990-21
	:	
V.	:	
	:	DECISION
CHEROKEE COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

Jerald Cardin (“Appellant”) appeals from a decision by the Cherokee County Board of Education (“Local Board”) to terminate his contract after it found that he had exhibited unprofessional conduct when he submitted the work product of another teacher to fulfill a requirement to become a data collector for the Teacher Performance Assessment Instrument (“TPAI”). Appellant maintains that the Local Board did not have any statutory basis to dismiss him, and that there was no evidence to support the charges. We sustain the Local Board’s decision.

The Local Board employed Appellant in 1988. Previously, Appellant spent 25 years in education as a teacher and principal in another state. At the end of the 1988-1989 school year, the Local Board promoted Appellant to the position of principal. The Local Superintendent informed Appellant that his duties required him to become a TPAI data collector. In order to become a TPAI data collector, Appellant had to attend a summer training session and satisfy the certification requirements.

The TPAI training was conducted by the North Georgia Regional Education Service Agency (“RESA”). The training session lasted five days and concluded on August 14, 1989. Appellant successfully completed the training session with the exception of the single requirement of submitting a

practice portfolio by September 6, 1989. Appellant had to complete the practice portfolio before he could obtain his TPAI certification.

Appellant was unable to complete the portfolio by September 6, 1989. He telephoned one of his former RESA instructors, who was then employed by the Local Board, to see if he would be able to obtain an extension. The former instructor advised him to obtain a copy of a practice portfolio that had been prepared the previous year by Ms. Lemeska, a teacher within Appellant's school, to use as a guide for preparing a practice portfolio. The former instructor also told Appellant that she was meeting with a RESA instructor and would tell the instructor what was happening.

Appellant obtained a copy of Ms. Lemeska's portfolio. He gave the portfolio to his secretary and asked her to copy it, but to delete the teacher's name from the copy and insert his name. After the document was copied, Appellant mailed the copy to the RESA office. Appellant did not sign a certification that the work submitted was original work, which is normally required.

After being informed that Appellant had submitted a copy of another teacher's portfolio, the Local Superintendent took action. The Local Superintendent interviewed Appellant and asked Appellant what had happened. Appellant admitted that he had submitted another teacher's portfolio, but claimed that he was informed by his former instructor that he could submit a copy to fulfill his requirements. The Local Superintendent placed Appellant on probation and prepared charges against him. The charge made was:

[Y]ou submitted plagiarized documentation for TPAI Assessment Certification rather than your own work, which indicates a severe lack of professionalism and loss of effectiveness as an employee of the Cherokee County Board of Education with supervisory authority.

The Local Board made its decision after a hearing was held on December 28, 1989. The Local Board found that Appellant had acted unprofessionally and that his contract should be terminated. The Local Board issued its termination decision at the end of the hearing.

1. The Local Superintendent made several other charges, but the Local Board did not find sufficient

evidence to sustain the other charges.

Appellant made a timely appeal to the State Board of Education, but the hearing record was not submitted by the Local Board until July, 1990 because the court reporter was unable to complete the transcript.

Appellant maintains that there was no evidence to support the charge that he plagiarized the work of another person. The portfolio statement provided:

I affirm that this portfolio is my original work
and has not been used in any previous assessment.
I also affirm that all standardized test scores
and preassessment results reported are those of
learners for whom the portfolio is planned.

Appellant argues that since he did not sign the statement, he did not represent the work to be his own. Plagiarism is defined as “the appropriation or imitation of the language, ideas, and thoughts of another author and the representation of them as one’s original work.” Appellant maintains that in the absence of a representation, he did not plagiarize the work of Ms. Lemeska. Additionally, he argues that there was never any attempt on his part to hide the fact that he was submitting Ms. Lemeska’s portfolio: he had his secretary copy the portfolio; he told Ms. Lemeska he was going to submit a copy of her portfolio, and he readily admitted to the Local Superintendent that he had submitted a copy. Based upon these facts, Appellant claims that he did not misrepresent the work as his own.

Even if Appellant’s actions are consistent with those of someone who was not attempting to hide anything and who believed his actions had been approved, there are facts that would support the Local Board’s findings. Appellant had his secretary remove Ms. Lemeska’s name from the portfolio and add his name. In addition, he submitted the portfolio without telling the RESA that it was copied. Instead, he simply penned a note of regret that it was late. As a result, the RESA accepted the portfolio and Appellant was awarded a certificate as a TPAI data collector. From these facts, the Local Board could find that Appellant intended to represent Ms. Lemeska’s work as his own.

Appellant argues that the notice of charges was defective because the charge of

submitting plagiarized material does not fall within one of the reasons for dismissal listed in O.C.G.A. § 20-2-940. Appellant's argument, however, is insufficient to reverse the Local Board's decision. Before the hearing began, counsel for the Local Board pointed out that the charge of plagiarism fell under the category of "other good and sufficient causes", which is one of the eight grounds for dismissal listed in O.C.G.A. § 20-2-940. Charges letters drafted to meet the requirements of notice under O.C.G.A. § 20-2-940 do not have to be drawn up with the specificity of a criminal indictment. The essential feature of them is that they must inform the teacher sufficiently to permit the teacher to present a defense. Appellant defended himself with vigor with the notice he received. We can only conclude that the notice of charges was not defective.

Appellant also argues that there was no evidence presented to establish a standard by which the Local Board could judge professionalism. Appellant argues that without a standard, any behavior could be characterized as lacking professionalism. Although many actions would require evidence of professional standards, evidence that plagiarism violates the standards of the education profession are unnecessary. In education, one of the cardinal rules that even second graders know is "Thou shalt not copy." Additional evidence would add little to defining this standard.

The prohibition against plagiarism in education is strong enough that it lends credence to Appellant's testimony that he thought he had permission to submit a copy because the portfolio portion of his training was a pro forma exercise. Nevertheless, the Local Board chose to believe that Appellant did not have permission to submit a copy. The Local Board served as the fact finder and there was evidence to support the Local Board's conclusion.

Appellant also claims that the Local Board denied him procedural due process because it failed to file his appeal with the State Board of Education within ten days after receipt. The Local Board, however, was not responsible for the delay. The court reporter did not complete the transcript until June, 1990. Appellant did not show how he was damaged by the delay. We, therefore, conclude that the Local Board did not deny Appellant any procedural due process.

Based upon the foregoing, the State Board of Education concludes that the notice of charges was sufficient and there was some evidence to support the Local Board's decision. The Local Board's decision, therefore, is
SUSTAINED.

This 8th day November, 1990.

Larry A. Foster
Vice Chairman For Appeals