STATE BOARD OF EDUCATION

STATE OF GEORGIA

RYLENE MEACHIAM,	:	
	:	
Appellant,	:	
	:	**CASE NO. 1991-16**
vs.	:	**DEC1S ION**
	:	
CLAYTON COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

PART I

SUMMARY

This is an appeal by Rylene Meacham ("Appellant") from a decision by the Clayton County Board of Education ("Local Board") to uphold the decision of the personnel director of the department of transportation to terminate Appellant from her position as a bus driver in the Clayton County School District. Appellant maintains that (1) her due process rights were violated because the Local Board did not provide her with notice of the charges prior to the hearing; (2) the evidence did not substantiate the charges, and (3) the punishment imposed was too severe under the circumstances. The appeal is dismissed.

PART II

FACTUAL BACKGROUND

For the past three years, Appellant was employed by the Local Board as a bus driver in the transportation department. As such, Appellant was not under contract with the Local Board. on October 6, 1990, Appellant was assigned to drive a school bus to and from LaGrange, Georgia. There were five other buses also taking the same trip. The director of the band, a parent

who was acting as a chaperone, and approximately fifty high school band students were present on Appellant's bus. Before leaving the high school, Appellant walked to the back of the bus and stated loudly that she wanted everyone to know the rules of behavior during the bus ride. These rules were that there would be no feet in the aisles, nothing on the floor, no uniforms hanging above the windows, no gum or food chewing and no radios, including those with headphones.

A few minutes after the trip began, the band director put on a radio with headphones. Shortly thereafter, Appellant pulled over to the side of the road and said that she felt sick and did not believe she could continue the bus trip. The band director pulled his headset off and asked Appellant to finish the trip, and get everyone home safely. Appellant agreed and drove the bus to Newnan, Georgia. Once Appellant got off the bus, she told the band director that she did not want to drive the bus home because there was no control over the students. Appellant then walked over to the other bus drivers and began swearing, stating that she was "sick of this shit", and "didn't give a damn anymore." Appellant then asked one of the other drivers, who had completed her assignment, to take over Appellant's assignment in exchange for Appellant's pay. The other driver refused because she had other plans. Appellant completed the assignment herself. The director of the band spoke to the principal and the musical director about Appellant's behavior on this trip.

Several weeks later, Appellant was scheduled to pick up some students in front of a high school. This particular high school had a traffic problem because other vehicles traveled in the same direction as the buses. The traffic blocked the driveway and it was not uncommon for buses to wait on the street until the driveway was clear. On this day, the principal was directing traffic in an attempt to minimize the traffic problems. The assistant principal was also assigned to bus duty. After being delayed on the edge of the driveway for several minutes while traffic cleared, Appellant entered the driveway. At this time, Appellant sounded her horn, got off her bus in the middle of the driveway, threw her arms in the air, and screamed at the principal, "If we had

somebody half sane directing traffic, we wouldn't have this mess... If you want to drive this bus, you can drive it." Both the assistant principal and the principal reported this incident to the director of the transportation department.

On December 14, 1990, Appellant received written notification from the department of transportation that she had been terminated from her position as a bus driver for the school system. The letter did not state the reasons for the department's decision to terminate Appellant. On December 21, 1990, Appellant received a letter informing her that she had a right to appeal this decision and have a hearing before the Local Board. On January 7, 1991, Appellant submitted a written request for a hearing.

The Local Board held a hearing on Appellant's termination on February 4, 1991. During the hearing, testimony was presented by the director of the band, the chaperone on the bus trip, the principal and the assistant principal, three other bus drivers, and Appellant. The Local Board decided to uphold the decision of the personnel director of the transportation department to terminate Appellant as a bus driver for exhibiting improper conduct toward parents of students, and toward the band director on the LaGrange band trip, as well as toward the principal directing traffic in a high school parking lot. Appellant received written notice of the Local Board's decision on February 7, 1991, and a timely appeal was then filed.

PART III

DISCUSSION

On appeal, Appellant contends that (1) the Local Board violated her rights of due process by failing to provide her with notice of the causes for termination prior to the hearing; (2) the evidence did not substantiate the charges, and (3) the punishment imposed was too severe under the circumstances.

O.C.G.A. § 20-2-1160 provides that a local board of education "shall constitute a tribunal for hearing and determining any matter of local controversy in reference to the construction or administration of the school law" and "either party shall have the right to appeal to the State Board of Education". The only school law applicable in this situation is O.C.G.A. § 20-2-940(a), which pertains to terminations, suspensions, and demotions, and under which the Local Board stated that it was conducting the hearing. By its terms O.C.G.A. § 20-2-940, and its requirements for a hearing, is applicable only to the termination, suspension, or demotion of an employee having a contract for a definite term. Appellant, however, did not have such a contract. O.C.G.A. § 20-2-940, therefore, was not applicable. O.C.G.A. § 20-2-1160 does not require any notice of charges.

In Henderson v. Fulton County Board of Education, Case No. 1976-17, (St. Bd. of Ed., 1976) the appellants, workers in a maintenance department, appealed to the State Board of Education after being discharged by their immediate supervisor. Just as in this case, the local board granted the workers a hearing even though they were not under contract. In Henderson, the State Board dismissed appellant's appeal, holding that where a normal employer-employee relationship is at issue, i.e., the employee is not under contract, and school law is not involved, an appeal to the State Board of Education is not warranted or statutorily authorized. Appellant has not shown why Henderson is inapplicable in this case. We, therefore, conclude that the State Board of Education does not have jurisdiction over this matter since an issue of school law has not been raised.

Even if the State Board of Education had jurisdiction over this appeal, the record supports the Local Board's decision. The standard for review by the State Board of Education is that if any evidence exists to support the decision of a local board of education, then the local board's decision will stand unless there has been an abuse of discretion or the decision is so arbitrary and capricious as to be illegal. See, Ransum v. Chattooaa County Bd. of Educ., 144 Ga. App. 783 (1978); Antone v. Greene County Bd. of Educ., Case No. 1976-11 (St. Bd. of Ed.,

1976). Several witnesses testified that Appellant had not conducted herself in an appropriate manner and had embarrassed and humiliated all of those present on both occasions at issue. There was, therefore, evidence to sustain the Local Board's decision.

Appellant argues that dismissal is too severe because only two incidents occurred. The degree of discipline, however, is within the discretion of the Local Board. The State Board of Education will not substitute its judgment for that of the Local Board.

PART IV

DECISION

Based upon the foregoing, we are of the opinion that the State Board of Education does not have jurisdiction over this matter. This appeal, therefore, is

DISMISSED.

This 8th day of August, 1991.

Mr. Abrams and Dr. King were not present.

Hollis Q. Lathem
Acting Vice Chairman for Appeals

Mr. Foster did not participate or vote in this case.