STATE BOARD OF EDUCATION
STATE OF GEORGIA

CASSAUNDRA W. GLEATON,	:	
	:	
Appellant,	:	
	:	**CASE NO 1991-28**
vs.	:	
	:	**DECISION**
SCHLEY COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

PART I

SUMMARY

This is an appeal by Cassaundra W. Gleaton ("Appellant") from a decision by the Schley County Board of Education ("Local Board") not to renew her contract as a principal for the 1991-1992 school year. The Local Board failed to give any reason for its decision, but the decision was made after the Local Superintendent charged Appellant with incompetency, willful neglect of duty, insubordination, and other good and sufficient causes under the provisions of O.C.G.A. § 20-2-940. Appellant claims on appeal that the Local Board failed to carry its burden of proof that she was guilty of the offenses charged; that the Local Board erred in denying her motion to recuse the Local Board Chairman due to his lack of impartiality; that the Local Board erred by allowing the letter of charges and a disciplinary letter to be admitted into evidence, and the Local Board erred in the conduct of the hearing by permitting the Local Superintendent to testify last after remaining in the hearing room after a request for sequestration was timely made. The decision of the Local Board is sustained.

PART II
FACTUAL BACKGROUND

Appellant completed her second year as an elementary school principal with the Local Board at the end of the 1990-1991 school year. She previously served as a classroom teacher for 21 years in the Dougherty County and Gwinnett County School Systems.

In August, 1989, Appellant assumed the duties of principal of the Schley County Elementary School, the only school within the school district. The Local Superintendent previously served as the principal for 8-1/2 years after teaching in the school for nine years. The superintendent and the principal are the only administrative positions within the school system.

At the conclusion of the 1989-1990 school year, the Local Superintendent recommended renewal of Appellant's contract and gave her satisfactory ratings in all areas of performance. On February 1, 1991, the Local Superintendent provided Appellant with a list of areas that he wanted Appellant to improve upon. In the letter, the Local Superintendent informed Appellant that if she failed to comply with his directive, he would not recommend renewal of her contract for the following year.

The February 1, 1991, letter directed Appellant to take five actions:

1. Report immediately to me any event which occurs at the school involving staff or students which has the potential of causing controversy or concern within the community.

2. Bring any complaint you have regarding a decision made by me or the board of education to me where we can discuss it in a professional and direct manner.

3. I expect you to treat all of your staff fairly and equally and not discriminate against some on the basis of your belief that they have talked to me.

4. I expect you to convey to your staff by example and, if necessary, directly that unprofessional conduct at school or school functions, even if intended and taken as a joke by some, will not be tolerated at Schley County Elementary School.

5. I expect you to convey to your staff that you will provide fair, firm, and consistent punishment, and that you will strongly and visibly support them in their endeavors to provide fair, firm, and consistent punishment.

On April 11, 1991, the Local Superintendent wrote to Appellant and told her that he would not recommend renewal of her contract. Appellant asked for a statement of the charges against her and for a hearing before the Local Board. The Local Superintendent responded on May 1, 1991, with a statement of charges. In the statement, Appellant was charged with incompetency, willful neglect of duties, insubordination, and other good and sufficient causes.

The Local Board heard the matter on June 11, and 12, 1991. At the end of the hearing, the Local Board voted 4-1 not to renew Appellant's contract. The Local Board did not make any findings of fact, and did not give any reasons or grounds for not renewing Appellant's contract. Appellant made a timely appeal to the State Board of Education.

PART III

DISCUSSION

A local board of education has the burden of proof in a hearing on the non-renewal of a teacher's contract. O.C.G.A. § 20-2-940(e). A local board of education can elect not to renew a teacher's contract on the grounds of (1) incompetency, (2) willful neglect of duty, (3) insubordination, and (4) other good and sufficient causes, along with four other grounds that are not involved in this case. O.C.G.A. § 20-2-940. The standard for review by the State Board of Education is that if there is any evidence to support the decision of the 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. Chattooga 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).

Appellant claims that there was insufficient evidence to support the charges. The Local Board argues that incompetence, willful neglect of duty and insubordination are shown by the multitude of incidents that were presented at the hearing rather than by looking at any single incident. The Local Board claims that the testimony of several teachers that there has been a decline in the discipline within the school establishes that Appellant is incompetent and has willfully neglected her duties. In addition, the Local Board then lists eight different incidents that establish that Appellant is insubordinate, incompetent and willfully neglected her duties.

There was considerable conflicting testimony concerning the decline in discipline within the school since Appellant assumed her duties as principal. The Local Board, as the trier of fact, could find that there was a decline in the level of discipline that was attributable to Appellant's lack of leadership, notwithstanding the testimony of several veteran teachers that Appellant was the best principal they had ever worked with and that the discipline was comparable to previous years. Based upon the rule that if there is any evidence to support the decision of a local board, the State Board is bound to sustain the local boards decision, we conclude that the Local Board could find that Appellant was incompetent.

The record, however, does not support the charges that Appellant willfully neglected her duties or was insubordinate. Appellant's philosophy that a principal can lead without instilling fear in the teachers and students conflicted with the philosophy of the Local Superintendent and some of the teachers. Such a conflict, however, does not establish that she willfully neglected her duties or was insubordinate.

Appellant argues that the hearing officer erred by not granting a motion to recuse the Local Board chairman. Appellant offered evidence that the Local Board chairman and the Local Superintendent were close personal friends. Additionally, there was evidence that the Local Superintendent visited the home of the Local Board chairman one or two nights before the hearing began. We do not believe that this evidence is sufficient to establish a basis for the Local Board chairman to recuse himself. The State Board of Education, therefore, concludes that the hearing officer did not err by denying Appellant's motion that the Local Board chairman recuse himself.

Appellant next claims that the hearing officer erred by allowing the Local Superintendent's February 1, 1991, letter and the statement of charges to be introduced into evidence. Appellant maintains that both documents are prejudicial to her ability to obtain a fair hearing. Unquestionably, both documents contain allegations that either did not have any evidence to support them, or that would not have supported a non-renewal even if evidence had been submitted. A statement of charges, however, is one of the procedural steps required by the statutes when requested by a teacher. O.C.G.A. § 20-2- 940. It is a necessary part of the record so that the Local Board can establish that it has complied with all of the procedural requirements of the statute. The statement of charges is similar to a complaint in a civil action, which, under Georgia law, is available to a jury. Appellant has riot advanced any compelling arguments or cited any cases that are sufficient to cause us to set aside a long-standing practice. The State Board of Education, therefore, concludes that the hearing officer did not err by allowing the statement of charges to be admitted into evidence.

The Local Superintendent's February 1, 1991, letter was a self-serving document that the hearing officer allowed after instructing the Local Board not to consider any of the allegations contained in the letter as evidence. The State Board of Education, therefore, concludes that the hearing officer properly allowed the February 1, 1991, letter into evidence with appropriate limiting instructions.

Appellant finally argues that the hearing officer erred and denied her due process by not excluding the Local Superintendent from the hearing after she had invoked the rule of sequestration and the Local Superintendent was not the first witness to testify. In this case, the Local Superintendent was the complaining party. Based upon the cases cited by the parties, the rule of sequestration is vested in the sound discretion of the court; generally, the prosecuting witness does not have to be excluded. See, Chastain v. State, 255 Ga. 723 (1986); Poultryland. Inc. v. Anderson, 200 Ga. 549 (1946); Kelly v. State, 182 Ga. App. 7 (1987). The State Board of Education concludes that the hearing officer did not err by allowing the Local Superintendent to remain in the hearing even though he was not the first witness to testify.

PART IV

DECISION

The State Board of Education is of the opinion that there was some evidence that will support a finding by the Local Board that Appellant was incompetent. Additionally, the State Board of Education is of the opinion that there were no errors in the conduct of the hearing. The Local Board's decision, therefore, is

SUSTAINED.

This 12th day of December, 1991.

Mr. Abrams, Mr. Brinson and Mr. Sessoms were not present.

Larry A. Foster
Vice Chairman for Appeals