

STATE BOARD OF EDUCATION

STATE OF GEORGIA

ROBERT A. GEE,

Appellant,

vs.

**CARROLL COUNTY
BOARD OF EDUCATION,**

Appellee.

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CASE NO. 1996-38

DECISION

This is an appeal by Robert A. Gee (Appellant) from a decision by the Carroll County Board of Education (Local Board) to dismiss him from his teaching position after finding him guilty of insubordination and immoral conduct. Appellant claims he was denied due process and the evidence does not support the Local Board's decision. The Local Board's decision is sustained.

On April 26, 1996, the Local Superintendent charged Appellant with insubordination, immorality, and other good and sufficient cause to terminate his contract based upon allegations that he improperly touched a female student. The Local Board conducted a hearing on May 15, 1996, to hear evidence on the charges. At the conclusion of the hearing, the Local Board found that the Local Superintendent had proven the charges and voted to dismiss Appellant.

The Local Superintendent charged that Appellant (1) placed his hand under the student's shirt on the day of the first baseball game, (2) grabbed the student between the legs as they walked up a flight of stairs, and (3) reached under the student's blouse and pulled her bra strap as she walked with her mother in the hallway. The only evidence presented was the student's testimony that the events occurred. Appellant denied touching the student in an inappropriate manner. Others testified that Appellant could not have been around the student on the day of the first baseball game because he was fully involved with them at the game and preparing for the game. Another student testified that she observed Appellant and the student with the student's mother and Appellant maintained a proper distance from the student at all times.

Appellant claimed that the student made the allegations because she needed an excuse for skipping school. The Local Superintendent presented evidence from other students that similar incidents had occurred in previous years but were not reported until the current allegations were made.

During the spring of the 1994-1995 school year, Appellant's principal investigated charges that Appellant inappropriately touched two female students who were friends of the student he was accused of touching during the 1995-1996 school year. The principal had concluded that the incidents had been misconstrued, but he directed Appellant not to touch any students in a manner that could be misconstrued.

The Local Superintendent also presented evidence from another former student that Appellant placed his hand under her blouse when he pulled her into a seat on a bus. This student also testified that Appellant placed his hands on her waist when they were returning from a golf outing and she had to ask him more than once to remove his hands before he stopped.

There was also evidence presented that Appellant's principal warned the students in the school not to talk about the incidents. As a result, Appellant claims he was denied due process because he was unable to interview any witnesses before the hearing and was thus unable to present his side of the story. Appellant, however, has not cited any precedent to establish a right to interview students before a hearing. Instead, Appellant simply makes a bare allegation that his due process rights were denied. In the absence of any case or statutory law that establishes or suggests a right to interview students before a hearing, the State Board of Education concludes that Appellant was not denied any due process rights.

Appellant was able to present numerous witnesses, including students and teachers, who testified on his behalf. The State Board of Education, therefore, further concludes that Appellants inability to discuss the allegations with students before the hearing did not harm him.

Appellant also claims that the evidence did not support the charges. The thrust of Appellant's main claim is that the evidence was contradictory and there was no evidence to corroborate the student's charges. "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, 242 S.E.2d 374 (1978); *Antone v. Greene County Bd. of Educ.*, Case No. 1976-11 (Ga. SBE, Sep. 8, 1976)." *Roderick J. v. Hart Cnty. Bd. of Educ.*, Case No. 1991-14 (Ga. SBE, Aug. 8, 1991). In this case, there was testimony presented that supported the charges and other testimony that supported Appellant. The record shows that

Appellant was a well-liked and competent coach and teacher who was easily approachable by the students. Other teachers testified that Appellant was one of the most caring teachers they knew and that he went out of his way to help other teachers and students. Two of the incidents with the student allegedly occurred when other people were around, but no other witnesses were presented. The third incident occurred when Appellant was with the baseball team. It was, however, the duty of the Local Board to determine the veracity of the witnesses. The State Board of Education, therefore, concludes that there was some evidence to support the charges.

Based upon the foregoing, it is the opinion of the State Board of Education that Appellant was not denied due process and there was evidence to support the charges. The Local Board's decision, therefore, is
SUSTAINED.

This 14th day of November, 1996.

Robert M. Brinson
Vice Chairman for Appeals