STATE BOARD OF EDUCATION

STATE OF GEORGIA

PAMELA JORDAN,	:	
	:	
Appellant,	:	
	:	**CASE NO. 1996-39**
vs.	:	
	:	**DECISION**
	:	
MCINTOSH COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

PART 1
SUMMARY

This is an appeal by Pamela Jordan (Appellant) from a decision by the McIntosh County Board of Education (Local Board) not to renew her contract as a middle school administrator based upon charges of insubordination, incompetence, willful neglect of duty, and other good and sufficient cause under the provisions of O.C.G.A. § 20-2-940. Appellant claims that the Local System failed to carry the burden of proof to sustain the charges. The Local Board's decision is reversed.

PART II
FACTUAL BACKGROUND

Appellant was employed with the McIntosh County School System for 15 years. Her last position was as the middle school administrator. She had served as an interim superintendent at one time when the Local Board was searching for a superintendent.

The Local Superintendent took office in 1993. At the time, Appellant was serving as the middle school principal and reported directly to the Local Superintendent. Before the Local Superintendent took office, Appellant had always received good evaluations.

During the 1992-1993 and the 1994-1995 school years, Appellant received satisfactory evaluations. In both years, however, the Local Superintendent noted that Appellant "Needs Improvement" in the area of communication with professional personnel and the public. Following

the 1994-1995 evaluation, the Local Superintendent told Appellant that she would be terminated at the end of the following year unless she did a much better job than she had done in the past.

At the end of the 1994-1995 school year, the Local Board voted to reorganize the structure of the school administration and employed a principal over both the high school and middle school and placed Appellant in the position of middle school administrator reporting directly to the principal rather than to the Local Superintendent.

At the beginning of the 1995-1996 school year, Appellant met with the Local Superintendent and the principal. Following the meeting, the principal wrote a letter to Appellant in which he instructed Appellant to improve her communications and keep him "informed on a daily basis about the needs of the school as you perceive them."

Throughout the 1995-1996 school year, the principal gave seventeen written reprimands to Appellant on the different matters discussed in more detail below. On March 22, 1996, the Local Superintendent informed Appellant that her contract would not be renewed. When Appellant asked for the basis of her non-renewal, the Local Superintendent charged her with insubordination, incompetence, willful neglect of duties, and other good and sufficient causes based upon the following incidents (set forth in summary form):

1. Appellant told her staff members that the former principal did not have the backbone to be the principal of the high school;

2. Appellant told the SACS team during the 1994-1995 school year that the middle school students did not have good access to the media center;

3. At the beginning of the school year, Appellant told her secretary that the year was going to be difficult because she would not be given a chance to prove herself;

4. Before the start of the 1995-1996 school year, Appellant made a comment at a meeting of educators that was critical of the new principal;

5. On October 31, 1995, Appellant threw a temper tantrum in the principal's office and slammed his office door upon entering it for a meeting;

6. Appellant asked a school custodian, who she found crying, whether the principal had also gotten to her;

7. Appellant told her staff that she was not allowed to call faculty meetings or send students to in-school suspension;

8. Appellant told the members of the middle school staff that the middle school would cease to exist;
9. Appellant discussed her problems with the school counselor;

10. Appellant failed to tell the principal about any problems in completing the FTE count at the beginning of the school year.

11. Appellant failed to inform the principal about any parental concerns involving the homecoming;

12. Appellant failed to inform the principal about a dispute involving three teachers and the placement of a special education student;

13. Appellant failed to inform the principal about a fight between two students;

14. Appellant refused to meet with parents;

15. Appellant acted unprofessionally because she talked about a teacher with another teacher, refused to participate in a parent conference to explain why a student was suspended, and told her secretary not to look up information for the vocational coordinator.

16. Appellant failed to maintain discipline while in charge of the silent lunch program;

17. Appellant failed to be present in the halls during class changes;

18. Appellant sat in the bleachers as a spectator during a game instead of being clearly visible;

19. Appellant used the in-school suspension program as a dumping ground;

20. Appellant refused to handle a disciplinary matter for the in-school suspension coordinator;

21. Appellant improperly handled the testing program by almost letting the eighth grade writing test pass unnoticed, by failing to take any steps to prepare the students and teachers for the ITBS examination, and by failing to administer a Stanford test.

22. Appellant permitted the high school graduation tests to be taken without informing a senior student;

23. Appellant was responsible for some students having to re-take the writing portion of the ITBS because she failed to inform them about not using a whiting fluid;

24. Appellant failed to prepare for the ITBS examination to the extent she had to be removed as the test coordinator.

The Local Board conducted a hearing on May 7, 1996. At the end of a fifteen-hour hearing, the Local Board, without making any findings of fact, adopted the Local Superintendent's recommendation not to renew Appellant's contract. Appellant then filed a timely appeal with the State Board of Education.

PART III
DISCUSSION

On appeal, Appellant claims that the Local Superintendent failed to carry the burden of proof to establish that she was insubordinate, incompetent, willfully neglected her duties, or that other good and sufficient cause existed not to renew her contract. The school system has the burden of proof in establishing that an employees contract should be terminated. O.C.G.A. § 20-2-940(e)(4).

"In order for an act to constitute insubordination, some intent to disregard the orders of a superior must be shown on the part of the person who is alleged to be insubordinate. Mere negligence or error does not constitute insubordination. Likewise, violation of the orders of a superior based upon a legitimate misunderstanding of the nature of the orders does not constitute insubordination." *West v. Habersham Cnty. Bd. of Educ.* Case No. 1986-53 (Ga. SBE, 1987).

"Incompetence denotes the lack of ability, legal qualification, or fitness to discharge the required duty." *Id.*

Willful neglect of duty has been defined as

> a flagrant act or omission, an intentional violation of a known rule or policy, or a continuous course of reprehensible conduct[, which requires] ... a showing of more than mere negligence.

Terry v. Houston Cnty. Bd. of Educ., 178 Ga. App. 296, 299 (1986).

"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 (Ga. SBE, Sep. 8, 1976)." *Roderick J. v. Hart Cnty. Bd. of Educ.*, Case No. 1991-14 (Ga, SBE, Aug. 8, 1991). In the instant case, our review of the record shows that the Local Superintendent failed to sustain the burden of proof to show that Appellant was insubordinate, incompetent, willfully neglected her duties, or that other good and sufficient cause exists not to renew her contract.

Since the Local Board failed to make any findings of facts to support its decision, each of the charges will be examined in turn to determine if there is any evidence to support the charges and whether that evidence is sufficient to sustain the charges.

1. The Local Superintendent failed to present any evidence that Appellant told her staff members that the former principal did not have the backbone to be the principal of the high school.

2. Evidence was presented that during the 1994-1995 school year, Appellant told the SACS team that the middle school students did not have access to the media center. When the former high school principal objected to this statement, Appellant explained to the SACS committee that the middle school students had limited access to the media center. At the time, there was considerable discussion about the limited access by the middle school students and the Local Superintendent had also expressed some concern. Appellant's statement to the SACS committee does not establish that she was insubordinate, incompetent, willfully neglected her duties, or give rise to any other good and sufficient cause not to renew her contract. Instead, she expressed a fact that was a concern of many within the school system.

3. There was evidence that at the beginning of the school year, Appellant returned from a conference with the principal and Local Superintendent and made a comment to her secretary that the year was going to be difficult for her because she did not think she would be given a chance to prove herself. A comment of this nature, especially to her personal secretary, does not establish insubordination, incompetence, willful neglect of duty, or other good and sufficient cause not to renew Appellant's contract.

4. The Local Superintendent did not present any evidence that before the start of the 1995-1996 school year Appellant made a comment at a meeting of educators that was critical of the new principal.

5. Evidence was presented that on October 31, 1995, Appellant entered the principal's office by slamming the door open, and, during the ensuing conference, Appellant acted "childish." This conference followed a faculty meeting where the teachers and principal were discussing the middle school participation in the homecoming game. When Appellant made a general comment that some parents had asked her how the middle school students would participate, the principal slammed his fist on the table and began berating Appellant in a loud voice. He then declared the meeting over, stalked out of the meeting and sent word for Appellant to come to his office. While Appellant perhaps opened a door too vigorously, her actions were not insubordinate or incompetent, and they did not amount to willful neglect of duty or other good and sufficient cause not to renew her contract.

6. Evidence was presented that Appellant asked a school custodian who was crying whether the principal had made her cry. Other than the fact that the principal had caused Appellant to cry on many occasions, there was no reason for Appellant to ask the custodian this question. The question, however, does not establish insubordination, incompetence, willful neglect of duty, or other good and sufficient cause not to renew Appellant's contract.

7. There was evidence that Appellant told her staff that she was not allowed to call faculty meetings or send students to in-school suspension. Appellant told her staff that she was not allowed to call faculty meetings after she was informed that the principal was in charge of the entire school, including the middle school, and she was to take her direction from him. Appellant interpreted this

to mean that she could not call faculty meetings on her own. Her interpretation does not constitute insubordination, incompetence, willful neglect of duty, or other good and sufficient cause not to renew her contract.

Appellant often told her staff she could not send students to in-school suspension. The in-school suspension program had a limited number of spaces. Once a student was sent to the in-school suspension program, the coordinator of the program could keep the student in the program longer than Appellant had assigned to the Student. When the program was full, Appellant could no longer assign students to the program. The principal also directed Appellant not to use the in-school suspension program as a "dumping ground." There was no evidence that Appellant told her staff that students could not be assigned to the in-school program when there were spaces available in the in-school program. Thus, her statements did not constitute insubordination, incompetence, willful neglect of duty, or other good and sufficient cause not to renew her contract.

8. There was no evidence that Appellant told her staff that the middle school would cease to exist as a middle school.

9. There was evidence that Appellant showed the middle school counselor a letter of reprimand issued by the principal. Appellant and the counselor were friends. If an employee, even at the administrative level, seeks the assistance of another employee, such conduct does not establish insubordination, incompetence, willful neglect of duty, or other good and sufficient cause not to renew the employee's contract.

10. The record shows that Appellant began informing the principal in July, 1995, that there were problems with the computer system used to prepare all the attendance reports. The computer problems were solved at the beginning of September, 1995. The central office FTE coordinator called the principal to see if there was some space for Appellant's secretary to work in without interruptions so she could complete the FTE report on time. The principal arranged for the secretary to move into a location where she would not be interrupted while entering the student grades and the FTE report was completed on time. The Local Superintendent maintained that Appellant's failure to inform the principal that there was a problem in completing the FTE report constituted insubordination. As argued by Appellant, however, there was no insubordination because she had not defied a direct order of the principal. She had kept him informed that there was a problem with the computer system.

11. As stated in 5, above, Appellant made a general statement in a faculty meeting on October 31, 1995, that some parents had asked her what the middle school students would be doing at the homecoming. The specific question had to do with whether the middle school students would dress for and participate in a parade, or wear their regular clothes to the game. The principal thought this information should have been brought to him personally and not raised for the first time in a faculty meeting. Appellant's failure to second guess the principal about the importance of a general question from a parent does not constitute insubordination, incompetence, willful neglect of duty, or other good and sufficient cause not to renew her contract.

12. The Local Superintendent claims that Appellant acted unprofessionally and was insubordinate in connection with the placement of a special education student. The record shows that Appellant was approached by the middle school special education teacher and a regular teacher about the placement of a special education student in the regular teacher's class. Following the regular policies of the school, Appellant asked the special education teacher to contact the special education director to schedule a placement committee meeting. The next day, the regular teacher stopped Appellant in the hall and tried to discuss the placement. Appellant told the regular teacher that they could not discuss anything until they were in the placement committee meeting. The special education teacher then neared the Appellant and the regular teacher as the two were concluding the discussion. The special education teacher thought the two were talking about the student's placement and felt she had a problem with the regular teacher so she went to the principal.

The principal called the Local Superintendent and the two called Appellant into a meeting where they proceeded to reprimand her for failing to inform the principal that there was a dispute between the special education teacher and the regular teacher and for acting unprofessionally in talking with the regular teacher about the special education teacher. Appellant attempted to explain the situation but was not allowed to explain. The regular education teacher was not disciplined.

Appellant was unaware of the special education's teacher's perceptions upon seeing the regular education teacher talking to her in the hallway. Instead, she was proceeding with the regular policies of the school and tabling any discussions until the placement committee met to discuss a change in placement of the special education student. The record shows that the principal had directed that he was not to be involved in special education placements. Appellant's failure to inform the principal that there was a difference of opinion between the regular education teacher and the special education teacher concerning a placement did not constitute insubordination. Placement committee meetings are held because there are differences of opinion concerning a student's placement. Appellant's failure to perceive the special education teacher's reaction to seeing her talking with the regular education teacher in the hall also does not constitute incompetency or unprofessional conduct since she does not have any control over other people's perceptions.

13. The record shows that a fight occurred between two students one day while the principal was away from the school. When the principal returned to the school at the end of the day, he called Appellant into his office and began berating her about some action. Upset, Appellant left the office and failed to tell the principal about the fight that occurred during the day. The Local Superintendent claims that Appellant's failure to tell the principal about the fight was insubordinate.

Appellant's failure to tell the principal about the fight was not a willful decision to disobey the directive made at the beginning of the year to keep the principal informed about important events at the school. It may have been negligent for Appellant to fail to tell the principal about the fight under the stress of her situation, but there was no showing of willfulness. Appellant cannot, therefore, be deemed to have been insubordinate.

14. The Local Superintendent did not present any evidence that showed that Appellant refused to meet with any parents.

15. The Local Superintendent claims Appellant acted unprofessionally because she talked to the regular education teacher about the special education teacher, she refused to offer any input in a parent-teacher conference, and she told her secretary not to prepare a report for the vocational director. As set forth in 12, above, Appellant did not act unprofessionally when the regular education teacher approached her in the hallway to discuss the placement of the special education student. The record shows that Appellant stopped the regular education teacher's question and told her that any discussion should take place at the placement committee meeting. The special education teacher did not talk to Appellant and testified that she did not perceive that Appellant had done anything wrong. There was no evidence that Appellant acted unprofessionally with respect to her handling of the placement of the special education student and the interaction of the teachers involved.

The Local Superintendent claims Appellant acted unprofessionally because she did not say anything during a conference with a parent by the Local Superintendent, the principal, and Appellant. The record shows that Appellant suspended a student for five days. When the parent called for a parental conference that was required before the student could return to school, Appellant was away at a two-day conference. The parent then asked for and was given a conference with the principal on February 9, 1996. During the conference with the principal, the principal told the parent that the student was crazy and needed to be in a mental institute. He then imposed an additional ten-day suspension. The parent called the Local Superintendent to protest the ten-day suspension and the Local Superintendent set up a conference to be attended by the parents, the Local Superintendent, the principal, and Appellant. At the conference, the parents protested the ten-day suspension and the way the principal treated the parent and the student. The parents began arguing with the Local Superintendent and the principal until the Local Superintendent threatened to call the police. The parents' only concern was about the ten-day suspension given by the principal and the principal's treatment of the student and her mother during the February 9 conference. During the second conference, there were no questions directed to Appellant and she did not have any knowledge about the February 9 conference. The Local Superintendent did not provide any evidence of what Appellant could have said during the conference, or in what way her conduct was unprofessional. We can only conclude that Appellant's failure to say anything about something she did not know anything about did not constitute unprofessional conduct.

The record shows that on October 31, 1995, following the faculty meeting where the principal pounded his fist and shouted at Appellant and then called her into his office to charge her with insubordination, discussed in 5, above, Appellant went into her office in an agitated state. When she passed her secretary, she asked the secretary what she was doing and the secretary explained that she was preparing a report for the vocational director. The vocational director had been in the principal's office when the principal charged Appellant with insubordination and did not say anything. Appellant told her secretary not to prepare any reports for the vocational director because he did not stand up for her. Ten minutes later, Appellant came back to her secretary and apologized for the statement and told her to proceed with the report. The secretary testified that she did not stop working on the report because she knew Appellant was upset and was not serious about stopping preparation of the report. We conclude that Appellant's conduct was not unprofessional because she was under extreme stress when she made the comment and she corrected her action within minutes.

16. The Local Superintendent claims that Appellant was incompetent because she failed to maintain discipline while in charge of the silent lunch program. The testimony presented at the hearing showed that the students were required to sit at lunch without talking as a form of punishment. The principal regularly reprimanded Appellant because students talked at the table while they were eating lunch. The principal testified that whenever the students talked while in the silent lunch program, she assigned additional discipline to them. At the same time, there was testimony that the students in the high school silent lunch program also talked but the high school supervisor of the program was never reprimanded.

The Local Superintendent's showing that students talked during the silent lunch program showed that Appellant was unable to accomplish the impossible — keeping middle school students from talking while they are eating. When they talked, Appellant initiated corrective action. The Local Superintendent did not show that the corrective action was ineffective. We can only conclude that a showing that students talked during the silent lunch program does not establish that Appellant was incompetent.

17. The principal testified that Appellant failed to be present in the halls during class changes as directed by him. Appellant had bus duty in the morning, handled all student discipline, met with three or four parents each day, had the silent lunch program for one and one-half hours per day, and was in charge of the testing program. With all the duties assigned to her, the Local Superintendent did not present any evidence to establish that Appellant was absent from the hallways while she was not engaged in attending to some of the other disciplinary duties assigned to her. With the various duties assigned to her, there were times when Appellant would be involved in one assigned duty while she was expected to be involved in another assigned duty. We can only conclude that Appellant was not incompetent because she did not always appear in the hallways between class changes.

18. The Local Superintendent charged that Appellant acted unprofessionally because she sat in the stands during the homecoming game rather than making herself visible to the student body by walking around. On the day of the homecoming game, Appellant was absent from school to attend a class for her doctoral program. Appellant had the principal's permission to be absent and had informed him she would not get back in time for the game. Nevertheless, she drove one-hundred-fifty miles and arrived at the game during the half-time. Tired from driving to and from her class, and without any assigned duties, Appellant sat in the stands to watch the game. The following week, the principal reprimanded her for unprofessional conduct because she sat in the stands rather than walk around. The Local Board did not have any policies concerning the administrators' conduct during the games, and Appellant was not assigned any duties for the game. The evidence does not show that Appellant acted unprofessionally; it only shows that Appellant was unable to discern what the principal thought was professional conduct.

19. Appellant was charged with incompetency because she used the in-school suspension program as a "dumping ground." At the same time, Appellant was charged with unprofessional conduct because she told her staff she could not send students to the in-school suspension program. See 7, above. The

Local Superintendent failed to present any evidence that Appellant unnecessarily assigned students to the in-school suspension program. There was evidence that the in-school suspension program coordinator, who was under the direction and control of the principal, assigned students additional time in the program so that many of them who were initially assigned only five days suspension spent up to one month in the program so that additional students could not be assigned to the program because of the limited number of spaces available in the program. The Local Superintendent failed to present any evidence that the students assigned to in-school suspension by Appellant should not have been so assigned. We conclude that the Local Superintendent failed to establish that Appellant used the in-school suspension program as a "dumping ground."

20. The Local Superintendent charged that Appellant was incompetent and acted unprofessionally because she failed to properly handle a disciplinary matter for the in-school suspension program coordinator. The record shows that a student was assigned to the in-school suspension program by the vocational director. The student walked out of the program and the in-school program coordinator told the student to go to Appellant. When Appellant learned that the student wanted to go home, Appellant informed the student she could not leave the program and Appellant could not permit the student to leave in-school suspension without approval from the vocational director, who was absent from school. Appellant, therefore, sent the student back to the in-school suspension program.

This evidence does not establish either incompetency or unprofessional conduct on Appellant's part. Appellant did not permit the student to arbitrarily leave the in-school suspension program. Her actions upheld the disciplinary measures initiated by the vocational director. Sending the student back to the in-school suspension program after the in-school suspension program coordinator sent the student to Appellant did not reflect an unwillingness on Appellant's part to support the in-school suspension program coordinator. Appellant maintained discipline within the system by not letting a student walk away from in-school suspension.

21. The Local Superintendent charged Appellant with incompetency because she allegedly almost let the eighth grade writing test to pass unnoticed, she failed to prepare the students and teachers for the ITBS examination, and she failed to administer the Stanford test. The record, however, shows that Appellant placed the eighth grade writing test on the school calendar at the beginning of the school year, and that she had meetings with the middle school counselor concerning the test in the weeks preceding the test and the teachers were informed about the test. There was no evidence presented to show that the eighth grade-writing test almost passed unnoticed except for the principal's testimony of his perception.

On April 2, 1996, Appellant was in charge of administering the ITBS examination. In the weeks preceding the examination, Appellant notified the teachers of the areas of concern, had posters made and posted in the hallways, met with the counselors, and coordinated with the central office. During the week preceding the examination, the principal informed Appellant and the teachers that the examinations would not start until April 9, 1996. On Monday, April 1, 1996, the principal informed Appellant that the test would be given the next day, April 2, 1996, and would be given in a large room adjacent to the gymnasium. Appellant notified the teachers and assembled the

test materials. The students and teachers were notified that the first day of testing would be the writing test and that they did not have to have their calculators. Appellant went through the testing manual and prepared a checklist of all the important points that had to be attended to without marking the test manual because it had to be used again in the following year.

Upon arriving at the test site on the morning of the examination, the room was extremely cold and Appellant had the heater blowers turned on. After the students arrived, but before the testing began or the test instructions were given, the students were asked whether they had their pencils and erasers with them. The principal arrived during this time and as the high school counselor was asking the students about their pencils and erasers, the principal interrupted and told the students to go get their calculators. As the students left, the principal also left the test site and did not return. The principal then issued an eleven-point memorandum and charged Appellant with incompetence in administering the ITBS examination and relieved her from responsibility for administering the ITBS examination.

The principal charged that Appellant failed to properly handle calculators when calculators were not even needed the first day. He also criticized Appellant for having heater blowers turned on before the test began. He also charged that instructions were given to the students while some of them were absent to get their calculators, and that Appellant had not reviewed the testing manuals because she had not high-lighted any of the pages in the test manual. Additionally, he criticized Appellant for not having signs up to indicate that a test was in progress. The record shows that the principal left the test site before the test instructions were started, that the room was extremely cold, and that the test site was in an area of the school where students were not allowed to walk except to take the examination. In addition, the record shows that the only problem with the calculators was the principal's own interference because the students and teachers had been notified not to bring calculators the first day since they were not needed. Appellant testified that she did not interrupt the principal because she was afraid of another outburst similar to the one she experienced before the faculty when she asked about the homecoming game. Additionally, Appellant did not mark in the test manual because it had to be used again the following year. Instead, she prepared a detailed checklist from the manual. The Local Superintendent failed to present any evidence that Appellant was incompetent in her handling of the ITBS examination.

The Local Superintendent also charged that Appellant was incompetent because she failed to present the Stanford test. The record shows that the Stanford test was not a scheduled test but was offered to the school for norming purposes and ordered without Appellant's knowledge by the principal and the high school curriculum director. After the high school curriculum director received the tests, the principal told the director to turn them over to Appellant, but not to provide Appellant with any assistance or information. The curriculum director told Appellant that the tests were in her office. Appellant attempted to arrange a meeting with the curriculum director, but the curriculum director was absent from school for much of the time during which the test had to be given. Before Appellant was able to get together with the curriculum director, the time in which the test was to be given had passed and the tests were returned.

There was no evidence that Appellant was aware of the time period in which the test had to be given. The test was ordered and received without Appellant's knowledge, and she was directed to give it without any assistance from either the principal or the curriculum director who ordered the test. The Local Superintendent did not present any evidence that Appellant knew anything about the Stanford test, or failed to carry out any responsibilities that she knew about or should have known about.

22. The Local Superintendent charged Appellant with incompetency because a high school graduation test was given, but one student was not told about the test. The evidence, however, showed that Appellant was not responsible for preparing the list of students who were to take the test, and that the test was given to every student who was required to take the test. The Local Superintendent failed to carry the burden of showing that Appellant was incompetent because one student was not told about the test.

23. Appellant was charged with incompetency because some students had to re-take a portion of the writing part of the ITBS examination because they used a whiting fluid to change their answers. The record shows that the students were told three times before the examination not to use any correcting fluids and Appellant had the recommended number of proctors monitoring the test taking. Notwithstanding, one student used a correcting fluid on a portion of the test. The fact that one student failed to follow directions does not establish that Appellant was incompetent.

24. Appellant was also charged with incompetence because she did not properly supervise the taking of the ITBS examination. As discussed in 21 and 23, above, the Local Superintendent did not present any evidence of Appellant's incompetence in connection with the ITBS examination.

The Local Board argues that even if the individual activities of Appellant are not considered to be insubordinate, incompetent, willful neglect of duty, or unprofessional conduct, Appellant's cumulative activities establishes other good and sufficient cause not to renew her contract. Viewed in its entirety, however, this is a record of a not-too-subtle campaign to dismiss Appellant under any circumstances. When the Local Superintendent was asked whether she had said "this is [the] year to get rid of all the trash in the school system," the Local Superintendent responded, "I don't think so. We couldn't get rid of all of it in one year."

The Local Board argues that the sum of the evidence shows that Appellant had a negative attitude and sought to undermine the authority of the principal and the Local Superintendent. If, however, the evidence for the individual charges does not show cause for non-renewal, the sum of the evidence cannot somehow show cause and a negative attitude is not one of the grounds for dismissal under O.C.G.A. § 20-2-940.

PART IV
DECISION

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Superintendent failed to carry the burden of proof in establishing that Appellant was incompetent, insubordinate, willfully neglected her duties, or that other good and sufficient cause existed not to renew her contract. The Local Board's decision, therefore, is
REVERSED.

This ____ day of November, 1996.

Robert M. Brinson
Vice Chairman for Appeals