

STATE BOARD OF EDUCATION

STATE OF GEORGIA

THARONE B. WARD,	:	
	:	
Appellant,	:	
	:	CASE NO. 1996-41
vs.	:	
	:	DECISION
ATLANTA PUBLIC SCHOOL	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by Tharone B. Ward (Appellant) from a decision by the Atlanta Public School Board of Education (Local Board) to terminate his teaching contract because he slapped a student. Appellant claims the evidence was not credible, that his response was within the guidelines provided by the Local Board, and he was denied due process because evidence of previous incidents was allowed. The Local Board's decision is sustained.

On February 19, 1996, Appellant escorted a female student to the principal's office and left her there because the principal was involved in a conference. When he returned to his class, he found some papers strewn from his desk onto the floor. The female student walked back into the classroom and said she had not knocked the papers to the floor. Appellant told her to return to the principal's office, but she refused. She then began cursing Appellant. He took her by the arm and started to escort her out of the room. She turned and tried to strike him in the face. Appellant fended off her blow and then slapped her on the face. The student ran to the principal's office and told the principal that Appellant had struck her.

The principal investigated the incident and obtained statements from the witnesses who observed what occurred. Appellant was then placed on administrative leave and a recommendation was made to terminate his teaching contract because he had been involved in other incidents with students and had been warned not to strike any students.

A hearing was held on May 1, 1996, before a tribunal of educators. The testimony of the witnesses confirmed the striking, which Appellant denied. The

tribunal found that Appellant was insubordinate, incompetent, willfully neglected his duties, and that other good and sufficient cause existed to terminate his contract under the provisions of O.C.G.A. § 20-2-940. The tribunal, therefore, recommended termination of Appellant's teaching contract. The Local Board adopted the tribunal's recommendation on June 10, 1996, and Appellant appealed to the State Board of Education.

On appeal, Appellant claims that his actions were justified and fell within the Local Board's policies. The Local Board's policy permits teachers to touch a student if necessary to avoid harm. The tribunal, however, was required to weigh the evidence to determine if Appellant's action was justified under the policy. "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). The record shows that there was conflicting testimony about the circumstances and whether Appellant struck the student. The issue of credibility has to be left with the fact finder, and is not a proper concern of a reviewing body. In this instance, there was evidence to support the tribunal's finding that the striking was not justified. The State Board of Education, therefore, concludes that Appellant did not act within the policy established by the Local Board.

Appellant also claims that evidence of prior incidents should not have been introduced because the evidence prejudiced the tribunal. Evidence of prior incidents, however, is admissible. *Palmer v. Putnam Cnty. Bd. of Educ.*, Case No. 1976-8 (Ga. SBE, Aug. 11, 1976). Testimony was presented that Appellant had been counseled several times about the treatment of students and had been directed not to physically abuse any students. Such testimony was relevant to the questions of whether Appellant struck the student, whether he had been directed not to physically abuse students, and to the nature of the recommended discipline.

The remaining claims by Appellant all go to the weight and credibility of the evidence and testimony of the students. As indicated, these are questions for the fact finder and not for the reviewing body.

Based upon the foregoing, it is the opinion of the State Board of Education that there was evidence to support the Local Board's decision to terminate Appellant's teaching contract because of insubordination and willful neglect of duty. The Local Board's decision, therefore, is

SUSTAINED.

This ____ day of November, 1996.

Robert M. Brinson
Vice Chairman for Appeals