

STATE BOARD OF EDUCATION
STATE OF GEORGIA

CAROLYN MIDDLETON,	:	
	:	
Appellant,	:	
	:	CASE NO. 1996-57
vs.	:	
	:	DECISION
BIBB COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by Carolyn Middleton (Appellant) from a decision by the Bibb County Board of Education (Local Board) not to renew her contract as a media specialist for the 1996-1997 school year because of incompetence, willful neglect of duty, insubordination, and other good and sufficient cause. Appellant claims she was improperly notified of her non-renewal, she was denied due process, the Local Board erroneously failed to rule on the admissibility of evidence, and her principal improperly evaluated her. None of Appellant's claims have any merit and the Local Board's decision is sustained.

Appellant worked for the Local Board for 27 years, first as a teacher and then as a media specialist. Sometime before the 1993-1994 school year, the Local Board decided to place all the records of the libraries on computers. At the time, Appellant had an aide. The 1995-1996 school year was the first year that Appellant did not have an aide. It became apparent to the principal and the Bibb County Director of Media Services that Appellant had not completed the process of putting all the media books and equipment data into the computer. Additionally, the principal learned that her teachers avoided the library because of Appellant's attitude.

The principal placed Appellant on a professional development plan, but Appellant failed to complete all of the assignments of the plan. Additionally, Appellant told the principal she had completed some activities, but the principal found that the activities had not been completed. For example, Appellant said she had placed bar codes on all of the books, but the principal found that many of the books were not coded. Appellant also failed to turn in her book requests when directed. She also tried to order some furniture from a local supplier after the principal had directed her to obtain the furniture from the central warehouse.

On April 9, 1996, the Local Superintendent sent Appellant a letter to inform her that he would not recommend renewal of her contract because of insubordination, incompetence, willful neglect of duty, and other good and sufficient cause. Appellant requested a hearing, which was held

before the Local Board on July 29, August 8, and August 15, 1996. After the hearing, the Local Board voted to accept the Local Superintendent's recommendation. Appellant then appealed to the State Board of Education.

Appellant initially claims she was denied due process because the notice of her non-renewal was not given to her before April 15, 1996. This issue, however, was not raised before the Local Board. If an issue is not raised at the initial hearing, it cannot be raised for the first time when an appeal is made Hutcheson v. DeKalb County Bd. of Educ., Case No. 1980-5 (Ga. SBE, May 8, 1980). The State Board of Education, as an appellate body, is not authorized to consider matters that have not been raised before the Local Board. Sharpley v. Hall County Bd. of Educ., 251 Ga. 54, 303 S.E.2d 9 (1983). The State Board of Education, therefore, concludes that this issue is without merit.

Appellant next claims that she was not given timely notice of the witnesses and evidence to be presented against her. The Local Superintendent sent a letter to Appellant on May 3, 1996, which set out the reasons for non-renewal, the witnesses who would testify, and a summary of the evidence. A supplemental notice was given to Appellant on July 26, 1996, which set out some additional potential witnesses and documents that would be presented at the hearing. Appellant claims the Local Board erred by failing to rule on the admissibility of the evidence revealed in the second notice.

O.C.G.A. § 20-2-940(b) provides that a written notice of the charges has to be given to an employee at least ten days before the hearing date. The section, however, also provides that, "The names of new witnesses shall be given as soon as practicable ...O.C.G.A. § 20-2-940(b)(2).

In the instant case, Appellant objected to the introduction of any testimony or documents revealed in the July 26, 1996, letter. The Local Board did not rule on Appellant's objection, but the Local Superintendent did not call any of the witnesses named in the July 26, 1996, letter, nor were any of the documents entered in evidence. O.C.G.A. § 20-2-940 clearly allows for disclosure of additional witnesses within the ten-day period before a hearing. In the instant case, however, even if such disclosure was impermissible, Appellant was not harmed because the witnesses were not called and the documents were not offered. The State Board of Education, therefore, concludes that the Local Board did not err by failing to rule on the admissibility of the testimony and documents revealed in the July 26, 1996, letter.

Appellant's final claim appears to be that the evidence does not support the charges because the principal was untrained for evaluating media specialists and failed to provide remedial services. As a result, Appellant claims that the principal's observations and evaluations were improper.

"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 evaluation and remediation process does not create any substantive or procedural rights for an employee. See, Fry v. Clayton Cnty. Bd. of Educ., Case No. 1987-27 (Ga. SBE, 1987). The record shows that Appellant failed to meet deadlines established by the principal. The primary problem was that Appellant was unable to enter the books and equipment data into the computer over a three-year period when larger schools were able to complete the process within one year. Appellant was unable to monitor the equipment because she did not have a working checkout system. The State Board of Education, therefore, concludes there was evidence to support the Local Board's decision.

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

This 16th day of January 1997.

Ms. Palmira Braswell abstained.

Mr. Larry Thompson
Vice Chairman for Appeals