

STATE BOARD OF EDUCATION

STATE OF GEORGIA

GEORGE FULLER,	:	
	:	
Appellant,	:	
	:	
vs.	:	
	:	CASE NO. 1997-49
FAYETTE COUNTY	:	DECISION
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by George Fuller (Appellant) from a decision by the Fayette County Board of Education (Local Board) to terminate his teaching contract for “other good and sufficient cause” under O.C.G.A. § 20-2-940 after finding that he had lost his effectiveness as a teacher following his arrest at school, which resulted from a criminal warrant filed by his wife’s former husband following an argument between Appellant and the former husband at the former husband’s house, and evidence that Appellant struck a witness to the argument with his car. Appellant claims that the Local Superintendent failed to establish that he had lost his effectiveness, that any publicity regarding the incident was generated by the Local Superintendent, and there was no showing that his out-of-school activity had any relation to his effectiveness as a teacher. The Local Board’s decision is sustained.

On September 1, 1997, Appellant, a physical education teacher and coach who was employed by the Local Board for 25 years, drove to his wife’s former husband’s home. When he arrived, he became engaged in an argument with his wife’s former husband. During the argument, Appellant slapped the former husband with his hand as he screamed to the former husband that he was going to kill him. A neighbor heard the screaming and witnessed the slapping and began walking to the scene. Appellant then got into his car, put the car in reverse, and accelerated backwards with enough speed that he left a thirty foot mark on the pavement where his tires slipped. Appellant then drove forward and almost struck the neighbor as he shouted, “Get out of my way.” The neighbor had to push with his hands on the hood of the car to avoid being struck.

Both the neighbor and the former husband filed charges against Appellant for battery, criminal trespass, and aggravated assault. On September 5, 1997, Clayton County and Peachtree City police officers arrested Appellant at Braelin Elementary School, where he was teaching a physical education class. The police led Appellant from the school in handcuffs. Two parents saw three police cars at the school and called the principal to find out what was wrong. Later, other parents called the principal and expressed concern about their children being in Appellant’s

class. The parents had apparently read a press release issued by the Local Superintendent that identified Appellant as the teacher who was arrested at the school. Some teachers also reported to the principal that their students were expressing concern about being in Appellant's class.

During the 1994-1995 school year, Appellant was involved in another incident at a restaurant. Following the 1994 incident, Appellant was placed on medical leave and warned that he could not get involved in another similar incident.

On September 17, 1997, the Local Board met to consider a recommendation to suspend Appellant with pay for 10 working days. The Local Board upheld the suspension. Appellant was notified on September 19, 1997, that he had the right to appeal the decision. He was also informed, in the same letter, that the Local Board would conduct another hearing, on October 1, 1997, to consider whether his contract should be terminated for other good and sufficient cause under O.C.G.A. § 20-2-940.

The Local Board conducted a hearing on October 1, 1997. During the hearing, Appellant did not object to the testimony about the 1994 incident, nor did he raise any issues about the Local Superintendent issuing a press release to the newspapers about his arrest. Appellant admitted that he had gone to the former husband's residence, but he denied that he made any threatening comments or tried to hit the neighbor. The Local Board also heard testimony from the former husband and the neighbor. At the conclusion of the hearing, the Local Board voted to terminate Appellant's teaching contract. Appellant then filed a timely appeal with the State Board of Education.

On appeal, Appellant claims (1) that the Local Superintendent failed to provide sufficient evidence to show good cause for termination under O.C.G.A. § 20-2-940(a)(8), (2) that the Local Superintendent abused his discretion by providing the publicity that served as the basis for his termination, (3) that evidence concerning the 1994 incident should not have been considered, and (4) his arrest should not be sufficient cause for termination because it was not associated with any school personnel, parents or children.

At the October 1, 1997 hearing, Appellant did not raise any issue or any objections concerning the press release provided by the Local Superintendent or the testimony about the 1994 incident. "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 Cnty. 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 Cnty. Bd of Educ.*, 251 Ga. 54, 303 S.E.2d 9 (1983). Since Appellant failed to object to the testimony about the 1994 incident and did not raise any issue about the Superintendent's release of a press release at the hearing before the Local Board, the State Board of Education cannot consider these issues on appeal.

Appellant claims that the evidence was insufficient to show good cause for his termination. "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. 199 1-14 (Ga. SBE, Aug. 8, 1991). There was testimony by the Local Superintendent and four principals that Appellant had lost his effectiveness to be a teacher because of the publicity in the community and the concerns expressed by the parents and pupils. The State Board of Education, therefore, concludes that there was evidence before the Local Board to support its decision.

Finally, Appellant claims that evidence of an incident that did not involve school personnel or students and that occurred away from the school does not establish a basis for termination for other good and sufficient cause under O.C.G.A. § 20-2-940(a)(8). There is, however, no requirement upon a local board of education to establish a nexus between a teacher's off-campus activities and the teacher's ability to teach. *See, Logan v. Warren County Board of Education*, 549 F. Supp. 145 (S.D. GA 1982). Appellant was terminated because he had lost his effectiveness, not because he became involved in an incident off-campus. The State Board of Education, therefore, concludes that the Local Board did not abuse its discretion because the incident occurred off-campus.

Based upon the foregoing, it is the opinion of the State Board of Education that there was evidence before the Local Board that would permit it to find that Appellant had lost his effectiveness as a teacher such that his teaching contract could be terminated for other good and sufficient cause under O.C.G.A. § 20-2-940. Accordingly, the Local Board's decision is

SUSTAINED.

This 9th day of April, 1998.

Dr. Bill Grow, Mr. J.T. Williams, Jr., Mrs. Barbara Archibald and Ms. Willou Smith were absent.

Larry Thompson
Vice Chairman of Appeals