

STATE BOARD OF EDUCATION

STATE OF GEORGIA

THOMAS J. AMENDOLA,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2000-19
	:	
ATKINSON COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by Thomas J. Amendola (Appellant) from a decision by the Atkinson County Board of Education (Local Board) to terminate his teaching contract after finding him guilty of making false statements on his application for employment and of using inappropriate language in class. Appellant claims that the Local Board improperly admitted hearsay evidence, the evidence was insufficient to support the charges, and that one of the tribunal members was biased. The Local Board's decision is sustained.

In 1997, the Local Board hired Appellant as a mathematics teacher. On his application for employment, Appellant stated that he had not been dismissed from any previous position and had not had a contract non-renewed. In fact, however, the Ware County Board of Education did not renew Appellant's teaching contract for the 1997-1998 school year but allowed Appellant to resign as part of a settlement agreement of the proceedings started when Appellant asked for a hearing.

During the 1999-2000 school year, some students complained about Appellant's language in class. Appellant's principal conducted an investigation and learned of other incidents and about Appellant's Ware County employment history. The Local Superintendent informed Appellant that he would seek termination of Appellant's teaching contract because of insubordination, willful neglect of duties, and other good and sufficient cause under the provisions of O.C.G.A. § 20-2-940 as a result of false statements on his employment application form and his use of inappropriate language in the classroom after being directed by his principal not to use profanity in the classroom.

A hearing was held before a tribunal appointed by the Local Board. Appellant did not object to the service of any of the tribunal members or ask for the recusal of any of the members. After the hearing, the tribunal recommended termination of Appellant's teaching contract and the Local Board adopted the tribunal's recommendation. Appellant then appealed to the State Board of Education.

On appeal to the State Board of Education, Appellant raises three issues. First, Appellant claims that he was denied due process because one of the tribunal members was employed by the Local Board. Next, Appellant claims that the testimony of one of the witnesses should not have been allowed because it was hearsay. Lastly, Appellant claims there was little evidence to support the charges that he used profanity in the classroom.

Appellant did not raise any objections to the tribunal panel members when the hearing was held. "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). There was no evidence in the record of any bias and Appellant failed to object to any of the tribunal members. The State Board of Education, therefore, concludes that Appellant's claim of bias is groundless.

Appellant's next claim, that the testimony of one of the witnesses should not have been admitted because it consisted of hearsay, is similarly groundless because the issue was not raised at the hearing and Appellant did not make any objections to the testimony.

Appellant's final claim is that the evidence was insubstantial that he used inappropriate language in the classroom. "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 the instant case, students testified that Appellant called them various names and made derogatory references to their mothers after Appellant was directed not to use profanity in the classroom. Additionally, the Local Board presented evidence that Appellant's contract was not renewed by the Ware County Board of Education but Appellant was allowed to resign as part of a settlement agreement. The State Board of Education, therefore, concludes that there was competent supporting evidence of the charges against Appellant.

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

This _____ day of June 2000.

Bruce Jackson
Vice Chairman for Appeals