STATE BOARD OF EDUCATION

STATE OF GEORGIA

AUDREY HOLSTON-PALMORE,

Appellant,	:	
	:	
vs.	:	**CASE NO. 2002-16**
	:	
MUSCOGEE COUNTY BOARD OF EDUCATION,	:	
	:	**DECISION**
Appellee.	:	
	:	

This is an appeal by Audrey Holston-Palmore (Appellant) from a decision by the Muscogee County Board of Education (Local Board) not to renew her teaching contract for the 2001-2002 school year because of incompetence, insubordination, willful neglect of duties, and other good and sufficient cause under the provisions of O.C.G.A. § 20-2-940. Appellant claims that the Local Board failed to give her proper notice for her hearing, that improper hearsay evidence was admitted during the hearing before the Local Board, and that the evidence did not support the charges. The Local Board's decision is sustained.

The Local Board employed Appellant as a special education teacher. She was assigned to the Cusseta Elementary School for the 1999-2000 school year. At the end of the school year, Appellant's principal placed her on a Professional Growth Plan for the 2000-2001 school year with objectives for improving her classroom management, interaction with other professionals, and arriving at school on time.

In September 1999, Appellant's principal directed her to be at school at 8:15 a.m. to meet her students. Throughout the 2000-2001 school year, Appellant arrived late. Appellant's principal estimated she was late 85 percent of the time. Although she was late, Appellant frequently entered "8:15" on the sign-in sheet. Appellant claimed that she was unable to get to school on time because her children's school would not allow her to drop her children off until 8:00 a.m.

On March 20, 2001, Appellant's principal found a student in Appellant's class who was frantic and who said that Appellant had pushed his head into the wall. The principal took the student from the classroom and escorted him to the office. The principal then took the student to lunch, where they encountered Appellant. Although the student was under the control of the principal, Appellant grabbed the student's cookies and chicken fingers from his plate and threw them into the trash and said the student was not supposed to have any cookies.

The following day, March 21, 2001, Appellant had trouble obtaining a toy block from another student. While taking the block from the Student, Appellant pushed the student. The student reported the incident to her parent, who called the police with the claim that Appellant had attacked the child. The next day, Appellant had another encounter with the same student and the police were again called. Appellant was placed on administrative leave with pay while the incidents were investigated.

Appellant's principal recommended against renewing Appellant's contract because of her incomplete record keeping, lack of appropriate classroom management techniques, her displays of disrespect and constant challenges to administrative authority, and her improper interaction with her students. The Local Superintendent notified Appellant that a recommendation would not be made to renew her contract for the 2001-2002 school year. Appellant asked for and was granted a hearing before the Local Board. The Local Board voted not to renew Appellant's contract because of insubordination, incompetence, willful neglect of duties and other good and sufficient cause under the provisions of O.C.G.A. § 20-2-940. Appellant then filed an appeal with the State Board of Education.

On appeal, Appellant claims that the Local Superintendent failed to give her proper notice because the substance of the testimony to be given by the witnesses was not disclosed when she was given her initial notice of the reasons for her non-renewal. In *Johnson v. Pulaski Cnty. Bd. of Educ.*, Case No. 1996-44 (Ga. SBE, Nov. 14, 1996), the State Board of Education rule that the local board failed to provide proper notice to a principal when the charges were so broadly drawn that the principal was unable to prepare a defense. In the instant case, the charge letter contained a summary of the information that would be provided by the witnesses. Specific instances, with dates, were noted. In addition, further witness information was provided Appellant before the hearing. The charges were prepared with enough specificity for Appellant to prepare a defense. The State Board of Education concludes that the notice given to Appellant was sufficient.

Appellant also claims that the hearing officer erred by allowing hearsay evidence to be admitted. In *McGahee v. Yamaha Motor Manufacturing Corp. of Amer.,* 214 Ga. App. 473, 448 S.E.2d 249 (1995) and *Finch v. Caldwell,* 155 Ga. App. 813, 273 S.E.2d 216 (1980), the Court of Appeals upheld the principle that hearsay evidence was without probative value to establish any fact, even in an administrative hearing. In the administrative setting, the prohibition is not against the admission of hearsay evidence, but is, instead, against the reliance on hearsay evidence standing alone. Thus, if the only evidence presented to establish a fact is hearsay evidence, then the fact cannot be deemed to have been established. In the instant case, the Local Board had substantial direct evidence to support its decision. The State Board of Education concludes that the admission of any hearsay evidence by the hearing officer was harmless error.

Appellant next contends that she had satisfactory explanations for her actions. The Local Board, however, as the trier of fact, was free to accept or reject Appellant's explanations. For example, both the principal and the assistant principal testified about an incident where the assistant principal was assisting a parent when Appellant entered the

office and demanded that the assistant principal give her the sign in book. When the assistant principal asked Appellant to wait until the business with the parent was finished, Appellant raised her voice and angrily demanded that the assistant principal immediately accede to her demands. Appellant testified that she did not raise her voice and was professional in her response. "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, there was evidence to support the Local Board's decision and it was not bound to believe Appellant's version of the incidents.

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 that Appellant was insubordinate, willfully neglected her duties, was incompetent, and that other good and sufficient cause existed not to renew her contract, and that there was no error in the conduct of the proceedings against Appellant. Accordingly, the Local Board's decision is SUSTAINED.

This _____ day of February 2002.

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Bruce Jackson
Vice Chairman for Appeals