

STATE BOARD OF EDUCATION

STATE OF GEORGIA

ARTHUR NICOLLS,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2002-35
	:	
DEKALB COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by Arthur Nicolls (Appellant) from a decision by the DeKalb County Board of Education (Local Board) to terminate his teaching contract because of incompetency, insubordination, and willful neglect of duties. Appellant claims that the evidence did not support the Local Board's decision. The Local Board's decision is sustained.

Appellant was initially employed by the Local Board for the 2000-2001 school year and was assigned to McNair High School. During observations of Appellant's teaching he received several "Needs Improvement." In January 2001, Appellant was placed on a Professional Development Plan. During two observations in March 2001, Appellant received five "Needs Improvement" and four "Needs Improvement" ratings. A recommendation was made against renewal of his teaching contract, but the recommendation was submitted too late for action and Appellant's teaching contract was renewed for the 2001-2002 school year.

In addition to Appellant's inadequate teaching abilities, Appellant failed to prepare lesson plans and substitute teacher folders as required. When he prepared lesson plans, he did not follow them. On one occasion, he turned in a lesson plan that did not indicate that a test would be given, yet when the principal entered the room to perform an observation, Appellant told the students they were going to have a test.

For the 2001-2002 school year, Appellant was initially assigned to M. L. King High School, where he was to teach two science courses and two mathematics courses. On November 5, 2001, progress report grades were supposed to be submitted. Appellant was absent on November 5 and did not make any arrangement to have his grades posted on the progress reports. When he returned, Appellant failed to make any effort to have his grades posted. Appellant's assistant principal repeatedly asked for the grades but did not receive any grades until December 21, 2001, which was the end of the grading period. The principal and assistant principal, however, found the grades unreliable because the grading sheet was improperly prepared and Appellant was unable to provide any documentation to establish how he arrived at the grades for his students.

At the end of the first semester, Appellant was transferred to the Open High School. Although he was not assigned to teach any classes, Appellant repeatedly fell asleep while performing various tasks. Appellant claimed that he was taking over the counter medications that caused him to fall asleep. During registration at the beginning of the semester, Appellant fell asleep while sitting at the table and a line of students backed up at his station. The students had to awaken him to complete their registration.

Appellant was charged with incompetency, insubordination, and willful neglect of duties. A tribunal heard evidence and found concluded that Appellant's teaching contract should be terminated. The Local Board accepted the tribunal's recommendation and dismissed Appellant. Appellant then appealed to the State Board of Education.

On appeal, Appellant claims that the evidence did not support the charges. Additionally, Appellant also claims that the charges did not warrant his dismissal.

"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 this instance, there was substantial evidence that showed that Appellant was incompetent and willfully neglected his duties. For example, there was ample evidence that Appellant failed completely to properly assign grades to his students. In addition, the Local Board had the statutory authority to terminate Appellant because of his incompetency, insubordination, and willful neglect of duty. O.C.G.A. § 20-2-940. The State Board of Education concludes that the Local Board's decision was not arbitrary or capricious.

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 and the decision to terminate Appellant's teaching contract because of incompetency, insubordination, and willful neglect of duty was not arbitrary or capricious. Accordingly, the Local Board's decision is SUSTAINED.

This _____ day of July 2002.

Cathy Henson
Chairperson, State Board of Education