

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>KENYETTA KENDRICK,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>vs.</b>	:	<b>CASE NO. 2008-53</b>
	:	
<b>ATLANTA CITY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	<b>DECISION</b>

This is an appeal by Kenyetta Kendrick (Appellant) from a decision by the Atlanta City Board of Education (Local Board) to terminate her teaching contract on the grounds of willful neglect of duties and other good and sufficient cause under the provisions of O.C.G.A. § 20-2-940 after a tribunal found that she permitted a student to drive her personal car. Appellant claims that her actions did not constitute willful neglect of her duties nor other good and sufficient cause to terminate her contract. The Local Board's decision is reversed.

On September 27, 2007, Appellant's principal saw a student enter a car he recognized as Appellant's and drive away. Unknown to the principal, the student drove the car to the school auto shop and returned to the parking lot when she could not find the auto mechanic. The school auto shop was located on campus a short distance from the parking lot. The student, a licensed driver for two years, had finished her classes for the day.

The principal went to Appellant and asked whether she had permitted the student to drive her car. Appellant told him that she had given the student the keys to her car and the student had taken her car to check on a flat tire. On October 4, 2007, the principal wrote a letter to Appellant and directed her not to allow students to drive her car. The principal then reported the incident to the central office.

The Local Superintendent decided to seek Appellant's termination. On November 19, 2007, the Local Superintendent sent a letter to Appellant that said that the Local Superintendent was recommending Appellant's termination because she allowed a student to drive her car, which constituted willful neglect of duties, other good and sufficient cause, a violation of Atlanta Board Policy CB, and a violation of the Professional Standards Commission's Code of Ethics, Standards 2 and 10. A supplemental charge letter was issued on February 1, 2008, which added the charge that Appellant permitted the same student to drive her vehicle off campus sometime before September 27, 2007.

Appellant asked for a hearing on the charges, which was held on February 26, 2008, before a three-member tribunal. The tribunal found that Appellant had allowed the student to drive her car on two occasions and had allowed the student to use her credit card to purchase some supplies for the school. The first instance was the incident observed by Appellant's principal; the second instance came to light after the decision was made to terminate Appellant and it occurred before the first instance. There was no evidence that Appellant permitted a student to drive her car after being warned by her principal. It was also established that there is no rule or regulation that specifically prohibits a teacher from allowing a student to drive the teacher's personal vehicle. Based upon these findings, the tribunal found that Appellant willfully neglected her duties because of a flagrant act, and that other good and sufficient cause existed because Appellant violated Atlanta Public School Board Policy CB and Standard 10 of the Professional Standards Commission's Code of Ethics. The tribunal also found that Appellant did not violate any known rule or policy, that she did not engage in a continuous course of reprehensible conduct, and did not violate Standard 2 of the Professional Standards Commission's Code of Ethics. The tribunal recommended termination of Appellant's teaching contract, which the Local Board adopted. Appellant then filed an appeal with the State Board of Education.

On appeal, Appellant claims that the evidence showed that she did not violate any board policy, did not willfully neglect her duties, did not violate Policy CB of the Local Board, and did not violate Standard 10 of the Professional Standards Commission's Code of Ethics. The Local Board argues that the act of any teacher permitting a student to drive their personal vehicle is such an egregious act that it does not require a written prohibition and displays such a lack of good judgment that the teacher should no longer be employed.

"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 Georgia Court of Appeals has interpreted willful neglect of duty in *Terry v. Houston Board of Educ.*, 178 Ga. App. 296, 342 S.E.2d 774 (1986), where the Court said, "... we interpret a 'willful neglect of dut[y]' under *O.C.G.A. § 20-2-940 (a) (3)* as being a flagrant act or omission, an intentional violation of a known rule or policy, or a continuous course of reprehensible conduct. Under either of these interpretations, 'wilfulness' requires a showing of more than mere negligence." The American Heritage Dictionary defines "flagrant" as "conspicuously bad, offensive, or reprehensible."<sup>1</sup> The

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<sup>1</sup> *The American Heritage® Dictionary of the English Language, Fourth Edition.* Houghton Mifflin Company, 2004.

word “flagrant” denotes an obviously egregious act. As indicated by the Court of Appeals, “willful neglect of duty” does not cover errors in judgment that would be deemed negligent or the lack of good judgment. In the instant case, the tribunal found that the act of a teacher permitting a student to drive the teacher’s personal vehicle was a flagrant act, thus constituting willful neglect of duty. To be a flagrant act, however, the action would have to be universally recognized as being an egregious act, but other teachers, including an assistant principal, testified that they allowed, or would have allowed, a student to drive their car before Appellant’s case was initiated. The assistant principal also testified that he would not allow a student to drive his vehicle off campus. One teacher testified that she was aware of other teachers who permitted students to drive their cars even though she would not allow a student to drive her car because of her personal feelings about who drove her car rather than because of any ethical considerations. Permitting a student to drive a teacher’s personal vehicle, therefore, is certainly not so universally recognized as being such an egregious act that all educators should automatically recognize it as unethical conduct or as being conduct to be avoided at all costs or risk termination. Although most educators might not allow a student to drive their personal vehicle because of personal liability fears or other fears, permitting a student to drive does not therefore become willful neglect of duty. The State Board of Education concludes that the act of permitting a student to drive a teacher’s personal vehicle under the circumstances presented here does not constitute a willful neglect of duty as contemplated under O.C.G.A. § 20-2-940.

The Local Board claims there is evidence to support Appellant’s dismissal for other good and sufficient cause because allowing a student to drive her personal vehicle was a violation of Local Board Policy CB and Ethical Standard 10 of the Professional Standards Commission. The Local Board’s Policy CB provides:

All employees are expected to ...maintain honest, equitable, professional relationships with students....

The Professional Standards Commission’s Code of Ethics for Educators, Standard 10, Professional Conduct, provides:

An educator should demonstrate conduct that follows generally recognized professional standards. Unethical conduct is any conduct that impairs the certificate holder’s ability to function professionally in his or her employment position or a pattern of behavior or conduct that is detrimental to the health, welfare, discipline, or morals of students.

“The Code of Ethics for Educators”, Georgia Professional Standards Commission, August 15, 2005.

The Local Board claims that Appellant violated its Policy CB because she permitted the student to use her credit card to purchase some supplies for the school, which constituted the establishment of an unprofessional relationship. The Local Superintendent, however, did not make any charges against Appellant regarding the use

of a credit card by the student and that fact, therefore, cannot be used as the basis for any action against Appellant.

The Local Board also argues that Appellant violated its Policy CB because she permitted the student to drive her car. Appellant's principal testified that permitting the student to drive violated the policy, but the Local Board does not show how or why permitting the student to drive constituted a violation of the policy. The policy is so general that it does not put a teacher on notice that any particular conduct is prohibited.<sup>2</sup> The policy begs the question – what is a professional relationship? Handing a student the keys to one's car certainly does not establish an unprofessional relationship. There was no evidence that Appellant's actions lessened her ability to teach or to exercise control over her students. Appellant's principal testified that Appellant's actions somehow caused a student to disrespect other teachers, but there was no evidence presented that showed the student being disrespectful to other teachers. The State Board of Education, therefore, concludes that there was no evidence to show that Appellant entered into an unprofessional relationship with the student.

The Local Board also argues that good and sufficient cause exists to terminate Appellant's contract because allowing a student to drive her personal vehicle violated Standard 10 of the Professional Standards Commission's Code of Ethics. Again, the Local Board fails to show how Appellant violated Standard 10. There was no evidence presented that Appellant's ability to teach or control her students was impaired, nor was there any evidence that Appellant engaged in a "pattern" detrimental to the health, welfare, discipline, or morals of students. The State Board of Education, therefore, concludes that there was no evidence that Appellant violated Standard 10 of the Professional Standards Commission's Code of Ethics.

Based upon the foregoing and a review of the record, it is the opinion of the State Board of Education that there was no evidence to support the Local Board's decision to terminate Appellant's teaching contract. Accordingly, the Local Board's decision is REVERSED.

This \_\_\_\_\_ day of July 2008.

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William Bradley Bryant  
Vice Chairman for Appeals

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<sup>2</sup> The policy is also directed to administrative personnel and not to teachers, although the Local Board, by its decision, has applied it to a teacher in this instance. Teachers would not normally look in policies directed to the administrative personnel to guide their conduct.