

STATE BOARD OF EDUCATION

STATE OF GEORGIA

LEE ADAMS,	:	
	:	
Appellant,	:	
	:	
v.	:	CASE NO. 2010-91
	:	
FULTON COUNTY BOARD	:	DECISION
OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by Lee Adams from a decision by the Fulton County Board of Education (“Local Board”) non-renewing his employment contract pursuant to O.C.G.A. § 20-2-940(a) on the grounds of other good and sufficient cause. On appeal, Appellant contends that the Local Board’s decision is not supported by the preponderance of evidence. For the reasons set forth below, the decision of the Local Board is **AFFIRMED**.

I. PROCEDURAL BACKGROUND

On or about April 16, 2010, Appellant was notified that his annual contract as a teacher was being non-renewed for the 2010-2011 school year on the grounds of incompetency, insubordination, willful neglect of duties, immorality, and other good and sufficient cause. Appellant appealed the non-renewal of his employment contract. The Local Board elected to designate a tribunal to conduct the hearing and submit its findings and recommendations to the Local Board. A tribunal for the Local Board was convened at which Appellant was provided the opportunity to present evidence and to subpoena witnesses.

After hearing the evidence, the tribunal unanimously concluded that no evidence existed in the record to support a finding of incompetency, insubordination, willful neglect of duties, and immorality. The tribunal found that other good and sufficient cause existed and recommended approval of the Superintendent’s recommendation that Appellant’s contract of employment not be renewed. The Local Board adopted the tribunal’s recommendation and non-renewed Appellant’s employment contract. Appellant has appealed the decision of the Local Board to the State Board of Education (“State Board”).

II. FACTUAL BACKGROUND

Appellant has been employed with the Local Board for approximately seventeen (17) years. For several years, Appellant had been the Principal of Parklane Elementary School (“Parklane”). At the end of the 2009-2010 school year, the Superintendent recommended the non-renewal of Appellant’s employment contract.¹ The Superintendent’s non-renewal letter was based upon allegations that someone changed multiple answers on the 5th Grade mathematics retest, and that Appellant was responsible for ensuring test security at Parklane, and that deliberate academic dishonesty occurred while Appellant was Principal at Parklane.

At the hearing, the Superintendent testified about the background leading up to the Parklane retest issue. Specifically, the Superintendent testified about the June 10, 2009, Governor’s Office of Student Achievement (“GOSA”) Preliminary Comprehensive Audit Report regarding the Summer of 2008 Criterion Referenced Competency Test (“CRCT”) retesting for 5th Grade.² The GOSA Report relied upon a statistical erasure analysis to identify whether test answers were changed from wrong to right more frequently than a representative sample. The GOSA Report concluded that “someone who had access to test materials after testing concluded changed multiple students’ answers on the 5th grade mathematics CRCT retest at” Parklane.³

Based upon the GOSA Report⁴, the Local Board conducted an investigation to determine if personnel at Parklane tampered with the tests. On July 1, 2009, the Local Board’s investigation found that it was “inconclusive.” Soon thereafter, the Local Board referred Appellant and Assistant Principal, Vicki Bullock, to the Georgia Professional Standards Commission (“GPSC”) for investigation. Appellant was then reassigned to the Central Office for the 2009-2010 school year. On December 10, 2009, GPSC issued a “probable cause” determination, finding that Appellant failed to follow testing procedures and recommended a one (1) year suspension of his certification.

¹ In the Spring of 2009, Appellant was named Georgia’s National Distinguished Principal.

² Appellant objected to the admission of testimony regarding the GOSA Report and the GOSA Report. The Hearing Officer admitted this evidence, but not as proof for the matters contained in it.

³ The GOSA Report related to several schools. However, the only school pertinent to this appeal is Parklane Elementary.

⁴ In July of 2009, the GOSA Report was presented to this Board. The GOSA Report recommended to this Board that it invalidate the retest mathematics results for Parklane. This Board adopted the Report and invalidated the 2008 5th grade mathematics retest scores at Parklane.

At the hearing, the Superintendent further testified that her decision to recommend the non-renewal of Appellant's employment contract was based upon concerns surrounding the Summer of 2008 CRCT retest at Parklane, and the December 10, 2009, "probable cause" finding by the GPSC, and its recommendation that Appellant's certification be suspended for one (1) year. The Superintendent testified that these events caused her concern regarding the confidence in the School District's testing. The Superintendent's testimony was based upon her opinion that having a teacher who had such a recommendation from the GPSC and who was providing testing would harm confidence in the School District. At the hearing, the Local Board also offered evidence that Appellant's entry code was used to enter Parklane for approximately two (2) hours on June 26, 2008.

At the hearing, Appellant testified that he was not the Principal for summer school in June of 2008. Rather, that Ms. Bullock was in charge of the summer school program in June of 2008. Appellant further testified at the hearing that he did not have a key to the building in the summer of 2008. Appellant testified that the school locks were being retooled and that he did not receive a key until August.

Appellant also offered testimony from several teachers who described Appellant as an "awesome" and "excellent" administrator and as having an "impeccable reputation." Appellant also offered the testimony of several teachers who taught at Parklane in the summer of 2008. These witnesses testified that the students were taught to erase stray marks and to use the process of elimination by making marks inside the bubbles and later erasing the marks. These witnesses also testified that they were interviewed by GOSA and the PSC and did not provide any information supporting the allegations that anyone tampered with the CRCT retests.

III. ERRORS ASSERTED ON APPEAL

Appellant asserts that the evidence in the record does not support the Local Board's decision, and that the Local Board improperly expanded the definition of "any other good and sufficient cause" as defined by O.C.G.A. § 20-2-940(a)(8). "The Local Board's determination only required a preponderance of evidence, and not evidence beyond a reasonable doubt." See Sherling v. Colquitt County Bd. of Educ., Case No. 1989-21 (Ga. SBE, Nov. 9, 1989); see also O.C.G.A. § 24-4-3. The State Board is required to affirm the decision of the Local Board if there is any evidence to support the decision of the Local Board, unless there is abuse of discretion or the decision is arbitrary and capricious as to be illegal. See Ransum v. Chattooga County Bd. of Educ., 144 Ga. App. 783 (1978); Antone v. Greene County Bd. of Educ., Case No. 1976-11 (Ga. SBE, Sep. 8, 1976). For the reasons set forth below, the State Board finds that the record contains legally sufficient evidence to support the decision of the Local Board.

In this case, the Local Board offered the evidence of the Superintendent who testified that the events surrounding the testing issues caused her concern regarding the confidence in the School District's testing. The Superintendent further testified that based upon her opinion that having a teacher who had such a recommendation from the GPSC and who was providing testing would harm confidence in the School District. Based upon the evidence, the tribunal concluded that, based upon the questions raised by the GOSA Report regarding testing integrity, Appellant was unable to be involved in administration, monitoring or supervision of testing. Thus, the decision of the Local Board is supported by the evidence in the record.

IV. CONCLUSION

Based upon the reasons set forth above, it is the opinion of the State Board of Education that this matter must be **AFFIRMED**.

This _____ day of October 2010.

MARY SUE MURRAY
VICE CHAIR FOR APPEALS