

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>TABEEKA JORDAN,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
v.	:	<b>CASE NO. 2011-14</b>
	:	
<b>ATLANTA INDEPENDENT SCHOOL</b>	:	<b>DECISION</b>
<b>SYSTEM,</b>	:	
	:	
<b>Appellee.</b>	:	

This is an appeal by Tabeeeka Jordan from a decision by the Atlanta Independent School System (“Local Board”) demoting her from the position of Assistant Principal to Teacher and suspending her for thirty (30) days pursuant to O.C.G.A. § 20-2-940(a) on the grounds of incompetency, willful neglect of duties, and other good and sufficient cause. On appeal, Appellant contends that the Local Board erred by (1) relying upon hearsay evidence, (2) squashing the subpoena served on Beverly Hall, (3) the Local Board prepared the findings for the hearing tribunal, and (4) the decision is not supported by the evidence. For the reasons set forth below, the decision of the Local Board is **SUSTAINED**.

**I. PROCEDURAL BACKGROUND**

Appellant was notified that she was being proposed for a demotion to teacher and a 30-day suspension without pay on the grounds of incompetency, willful neglect of duties, and other good and sufficient cause. Appellant appealed the proposed actions. The Local Board designated 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 concluded that evidence existed in the record to support a finding of incompetency, willful neglect of duties, and other good and sufficient cause supporting Appellant’s demotion and 30-day suspension without pay. The Local Board adopted the tribunal’s recommendation. Appellant has appealed the decision of the Local Board to the State Board of Education (“State Board”).

## **II. FACTUAL BACKGROUND**

Appellant was employed by the Local Board as the Assistant Principal at Deerwood Academy. In the summer of 2008, Appellant was the Site Administrator for the 2008 CRCT summer re-test at Deerwood Academy. In June of 2009, Deerwood was one of six Georgia schools identified by the Governor's Office of Student Achievement ("GOSA") that had significantly higher scores in math on the 2008 summer re-test than it did during the prior spring test administration. 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 found that there was "overwhelming evidence to show that someone who had access to test materials after testing concluded changed multiple students' answers on the fifth grade CRCT at Deerwood Academy."

As a result of the GOSA Report, the Local Board launched an investigation to determine whether there was evidence to support or to contradict GOSA's conclusions of tampering on the fifth grade math test. The Investigator concluded that there was not overwhelming evidence of tampering or erasing but did uncover irregularities and violations of procedure during the 2008 CRCT summer re-test at Deerwood. The Investigator concluded that Appellant was responsible for some of the irregularities.

At the hearing, the Local Board offered evidence showing that testing procedures require testing to occur in a normal classroom setting, and that any changes needed to be documented. The Local Board further offered evidence that Appellant pulled a group of fifth grade students out of their regular classrooms and took them to another classroom. Appellant then instructed a recently retired teacher to administer the test to these students. This retired teacher had not received the mandatory training in-service required of all test examiners. This retired teacher also did not sign in or sign out on the form used to track answer sheets. Appellant did not document her actions on the test certification form and did not inform the appropriate Local Board officials of the situation. The investigator determined that Appellant's actions violated state and local testing.

At the hearing, Appellant admitted that she pulled a group of fifth grade students from their regular classroom. Appellant further admitted that she asked the retired teacher to administer the test.

## **III. ERRORS ASSERTED ON APPEAL**

### **A. Hearsay Evidence.**

Appellant asserts that the tribunal erred by allowing and relying upon the hearsay evidence from the testimony of the Deputy Superintendent. The Local Board contends that

Appellant did not object to this testimony on hearsay grounds. Thus, the Local Board contends that this objection was not raised before the hearing officer, and, therefore, cannot be raised on appeal to the State Board. Hutcheson v. DeKalb County Bd. of Educ., Case No. 1980-5 (Ga. SBE, May 1980); Z.G. v. Henry County Bd. of Educ., Case No. 2007-05 (Ga. SBE, Jan. 2007) citing Sharpley v. Hall County Bd. of Educ., 251 Ga. 54 (1983). Based upon a review of the record, this Board agrees that Appellant did not raise this issue below, and therefore it cannot be raised before this Board.

Furthermore, even assuming Appellant raised this issue before the Local Board, any alleged error is harmless error. M.H. v. Gwinnett County Bd. of Educ., Case No. 2000-37 (Ga. SBE, Sep. 2000). As set forth below, the record contains admissible evidence. Therefore, to the extent inadmissible hearsay was admitted, doing so was harmless error.

#### **B. Subpoena to Beverly Hall.**

Appellant asserts that the Local Board erred because the hearing officer did not have the authority to quash the subpoena issued to Beverly Hall. The granting of a motion to quash is within the discretion of the hearing officer. Goff v. Montgomery County Bd. of Educ., Case No. 2004-33 (Ga. SBE, May 2004). Furthermore, the record does not contain a sufficient offer of proof to establish that the possible testimony from Hall would have probative value of the issues involved in this case. Based upon the record, this Board does not find that the hearing officer abused its discretion in granting the motion to quash.

#### **C. Findings submitted by Local Board to Tribunal.**

Appellant asserts that the Local Board erred because its legal counsel submitted proposed findings of fact to the hearing tribunal. This assertion is without merit. The record does not indicate that Appellant was denied the right to submit findings of fact. Moreover, this Board does not find a sufficient basis to reverse the result reached by the Local Board. Moreover, even if any error occurred, the State Board does not find any harm in the record from the Local Board's submission of its Findings of Fact to the tribunal. Thus, this Board finds that the Local Board did not err, and, if it did, any error was harmless. See Wilson v. Atlanta Public Schools Bd. of Educ., Case No. 2010-26 (Ga. SBE, Jan. 2010).

#### **D. Record Evidence.**

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).

In this case, the record shows that testing procedures require testing to occur in a normal classroom setting, and that any changes needed to be documented. Appellant<sup>1</sup> pulled a group of fifth grade students out of their regular classrooms and took them to another classroom. Appellant then instructed a recently retired teacher to administer the test to these students. This retired teacher had not received the mandatory training in-service required of all test examiners. This retired teacher also did not sign in or sign out on the form used to track answer sheets. Appellant did not document her actions on the test certification form and did not inform the appropriate Local Board officials of the situation. At the hearing, Appellant admitted that she pulled a group of fifth grade students from their regular classroom. Appellant further admitted that she asked the retired teacher to administer the test. Thus, the record contains sufficient evidence to support the decision of the Local Board.

#### IV. CONCLUSION

Based upon the reasons set forth above, it is the opinion of the State Board of Education that the evidence supports the decision of the Local Board and it is, therefore, **SUSTAINED**.

This \_\_\_\_\_ day of November 2010.

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MARY SUE MURRAY  
VICE CHAIR FOR APPEALS

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<sup>1</sup> Appellant contends that she was not in charge of the summer school program. However, the record contains evidence supporting the conclusion that she was in charge of the summer school program. Thus, the hearing tribunal as trier of fact was charged with weighing the facts and this Board will not disturb the Local Board's findings of fact. Moreover, regardless of whether Appellant was in charge of the summer program, the record shows that she took actions that violated testing procedures.