

**STATE BOARD OF EDUCATION
STATE OF GEORGIA**

ANGEL GODDARD,	:	
	:	
Appellant,	:	
	:	
v.	:	CASE NO. 2012-16
	:	
CLAYTON COUNTY BOARD OF EDUCATION,	:	DECISION
	:	
Appellee.	:	

This is an appeal by Angel Goddard from a decision by the Clayton County Board of Education (“Local Board”) to terminate her employment contract. The Local Board terminated Appellant’s employment contract, finding that she violated the Local Board’s policy by failing to maintain and satisfy the necessary certification and/or educational requirements in the fields in which she was assigned to teach, as required under O.C.G.A. § 20-2-940(a)(7). On appeal, Appellant asserts that the Local Board erred by (1) failing to issue findings and recommendations as required by O.C.G.A. § 20-2-940(f), (2) by failing to grant her motion to dismiss on the grounds that notice of charge did not meet the requirements of O.C.G.A. § 20-2-940(b), and that the decision is based upon conduct that occurred in the prior contract year. For the reasons set forth below, the decision of the Local Board is **SUSTAINED**.

I. PROCEDURAL BACKGROUND

Appellant was employed with the Local Board as a teacher since approximately July of 2008. On or about August 18, 2011, Appellant was notified that her 2011-2012 employment contract was being proposed for termination. Appellant appealed her proposed termination from employment. On September 1, 2011, the Local Board provided Appellant a hearing at which Appellant was given the opportunity to present evidence before a tribunal. At the conclusion of the hearing, the tribunal found that Appellant had failed to maintain and satisfy the necessary certification requirements in the fields in which she was assigned to teach. The Local Board adopted the hearing tribunal’s recommendation. Appellant has appealed the decision of the Local Board to the State Board of Education (“State Board”).

II. FACTUAL BACKGROUND

On or about July 8, 2008, Appellant was hired to teach regular language arts at Pointe South Middle School. Appellant taught regular language arts for the 2008-2009 and 2009-2010 school-years. After accepting the 2010-2011 school-year contract, the Local Board assigned Appellant to a special education position. Appellant had not taught special education for several years, but possessed the required certifications to teach special education. The Local Board and Appellant also entered into a separate two (2) year contract to teach special education for which Appellant was paid an additional stipend. The Local Board did so because of a need for special education teachers.

During the 2010-2011 school-year, Appellant had a difficult school year due to incidents, such as, a student verbally attacking her, and another student pouring urine under her door which she stepped-in. The stress resulted in Appellant being taken to the emergency room. Appellant did not believe she could continue to teach in special education without her health deteriorating. Consequently, in November of 2010, Appellant voluntarily deleted her special education certification effective June 30, 2011. Appellant ensured the effective date was delayed to be able to continue to honor her 2010-2011 contract. In doing so, Appellant followed the rules prescribed by the Professional Standards Commission. During the 2010-2011 school-year, Appellant informed her Principal that she intended to delete her certification for teaching special education. Appellant did not seek the approval of the Local Board before deleting her special education certification.

In May of 2011, the Appellant accepted her contract for the 2011-2012 school-year. The contract required Appellant to “hold a valid certification issued by the Professional Standards Commission of Georgia, for the position to which he/she is assigned.” In May of 2011, when Appellant was offered and accepted her contract, she was assigned to a special education position. In May of 2011, the Local Board was not aware that Appellant had deleted her special education certification. In July of 2011, Appellant was assigned again to teach special education. The Local Board learned Appellant no longer possessed her special education certification. As a result, the Local Board proposed the termination of Appellant’s employment contract.

III. ERRORS ASSERTED ON APPEAL

A. Issuance of Findings and Recommendations.

Official Code of Georgia Annotated § 20-2-940(f) provides that “[w]here the hearing is before a tribunal, the tribunal shall file its findings and recommendations with the local board with five days of the conclusion of the hearing. . . .” Appellant contends that the Local Board failed to issue findings and recommendations as required by O.C.G.A. § 20-2-940(f). The Local Board contends that it has complied with the requirements of O.C.G.A. § 20-2-940(f).

The record contains findings and recommendations. At oral argument, Appellant asserted that she was never served with the findings and recommendations, and that she should have been served. Appellant did not identify any prejudice by not being served with the findings and recommendations. Thus, this Board finds that the Appellant has failed to identify any error by the Local Board¹ in this case.

B. Notice Requirements.

Appellant contends that the Local Board erred by denying her motion to dismiss the charges because the notice of charges was deficient in that it failed to identify the specific policies which she allegedly violated. The Local Board contends that the notice was sufficient because her termination was based on her failure to maintain her certifications.

In this case, the notice issued by the Local Board broadly referenced the rules of the Professional Standards Commission, the Georgia Board of Education, and Clayton County Public Schools. The notice also referred to the No Child Left Behind Act. The notice further stated that Appellant failed to maintain and satisfy the necessary certification in the fields she was assigned to teach. The notice also states that Appellant's conduct of deleting her certification violated the policies and practices of Clayton County Public Schools.

In reviewing the notice, this Board agrees that the notice appears overly broad in that it makes an all-encompassing reference to the rules of the Professional Standards Commission, the Georgia Board of Education, and Clayton County Public Schools. However, at oral argument, Appellant failed to identify any unknown policy or policies that the Local Board relied upon at the hearing. Rather, the Local Board only relied on the requirement that Appellant was required to maintain her certifications, which the notice specifically identified, and which Appellant was clearly on notice. Thus, this Board finds that while the notice is overly broad, the Appellant was clearly on notice of the policy which applied to her case. Therefore, to the extent the notice was overly broad, any error was harmless error.

¹ The Board finds that Official Code of Georgia Annotated § 20-2-940(f) does not specifically state that the findings and recommendations are to be served on the teacher or her counsel. However, this Board finds that implicit in "issuing" findings and recommendations that a Local Board is required to serve the findings and recommendations on the teacher or his or her counsel. Furthermore, this Board finds that in order to establish that the findings and recommendations was issued within five (5) days of the conclusion of the hearing, the Local Board is required to provide a certification from the tribunal establishing that the findings and recommendations was issued within five (5) days.

C. Evidence of Prior Acts.

Appellant contends that the Local Board's decision is erroneous because the conduct for which the Local Board relied was conduct that occurred in the prior contract year. Specifically, the notice letter refers to Appellant's act of deleting her special education certification which she did in November of 2010. In response, the Local Board contends that the act of deletion is not the issue. Rather, the Local Board contends that Appellant's failure to maintain her special education certification is the issue, not her conduct.

Appellant relies on this Board's decision in Peterson v. Brooks County Bd. of Educ., Case No. 1990-29 (Ga. SBE, Dec. 1990), rev'd on other grounds Brooks County Bd. of Educ. v. Peterson (Superior Court of Brooks County; Civil Action No. 91-CV-43; Aug. 2, 1991). In Peterson this Board held that evidence of incidents that occurred in a prior incidents can be used for the purpose of establishing a course of conduct, but cannot be used to recommend against renewal in a subsequent contract year. After Peterson, the Georgia Court of Appeals followed this Board's holding in Peterson. See Moulder v. Bartow County Bd. of Educ., 267 Ga. App. 339 (2004).

In this case, the Local Board's notice refers both to Appellant's failure to maintain her certifications and her conduct of deleting her certifications. Thus, the Local Board's notice is confusing in that it purports to be one charge, but contains two charges. However, the tribunal's recommendation is based upon Appellant's failure to maintain her certification in special education. Thus, while Appellant's conduct of deleting her special education certification occurred in November of 2010, which was the prior contract year, the basis for terminating her contract is that she failed to maintain her special education certification. Thus, Peterson and Moulder are inapplicable to this case.

Furthermore, Appellant's contract required her to "hold a valid certification issued by the Professional Standards Commission of Georgia, for the position to which he/she is assigned." In this case, in May of 2011, when Appellant signed her contract, she had been assigned to teach special education. In a similar case, this Board has previously found that a teacher is required to maintain the proper certification "for the position []she is assigned." See Wilson v. Atlanta Public Schools Bd. of Educ., Case No. 2010-26 (Ga. SBE, Jan. 2010). Moreover, Appellant was aware that the Local Board had asked her for a two (2) year commitment to teach special education. Nevertheless, Appellant voluntarily deleted her special education certification. Appellant² failed to obtain the approval from the Local Board before doing so. It also appears that Appellant could have sought to have her special education certification reinstated prior to her termination, but she chose not to do so. Thus, this Board concludes that Appellant did not

² Appellant contends that the Local Board was aware that she had deleted her special education certification prior to offering her a new contract. Appellant relies on the Professional Standards Commission record which was accessed and printed by an administrative assistant employed by the Local Board. However, the accessing and printing of this document by an administrative assistant fails to establish that the Superintendent or his authorized designee was aware of Appellant's status prior to issuing her contract.

maintain the necessary certification for the position she was assigned. Therefore, the decision of the Local Board is supported by the evidence.

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 January 2012.

MARY SUE MURRAY
VICE CHAIR FOR APPEALS