

STATE BOARD OF EDUCATION

STATE OF GEORGIA


SARI RANSUM,	:	
	:	
Appellant,	:	
	:	
vs.	:	
	:	CASE NO. 1977-2
CHATTOOGA COUNTY BOARD OF	:	
EDUCATION,	:	
	:	
Appellee.	:	

O R D E R

THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, attached hereto, and, after a vote in open meeting,

DETERMINES AND ORDERS, that the decision herein of the Chattooga County Board of Education be, and is hereby, reversed.

This 9th day of June, 1977.


THOMAS K. VANN, JR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

SARI RANSUM,	:	CASE NO. 1977-2
	:	
Appellant,	:	
	:	
vs.	:	
	:	
CHATTOOGA COUNTY BOARD OF	:	REPORT OF
EDUCATION,	:	HEARING OFFICER
	:	
Appellee.	:	

PART I

INTRODUCTION

At the conclusion of a hearing on May 3, 1976, the Chattooga County Board of Education (hereinafter Local Board) voted not to renew the contract of Sari Ransum (hereinafter Appellant), who had been employed for ten (10) years by the Local Board. This appeal is from the decision not to renew the contract.

Appellant received written notice on March 9, 1976, that the superintendent was not recommending renewal of her contract for the 1976-77 school year and that the Local Board had, on March 8, 1976, voted not to renew her contract. On March 11, 1976, Appellant was given a written list of charges against her. This list was supplemented on April 20, 1976. The Appellant was represented by counsel at the hearing on the charges held by the Local

Board on May 3, 1976.

Although several charges were made against Appellant, only six charges remained at the conclusion of the hearing because the others were either dropped or no evidence was submitted concerning them. The six remaining charges can be summarized as follows:

- a. Appellant failed to stand outside her classroom door between classes.
- b. Appellant left students unattended in classroom at various times.
- c. Appellant permitted two students to leave classroom against school policy.
- d. Appellant's classroom was noisy.
- e. Appellant was uncooperative in the scheduling of students.
- f. Appellant took pens or pencils from vault without paying for them.

The Appellant immediately appealed to the State Board of Education through the local superintendent. The transcript and record, however, were not forwarded to the State Board of Education until March, 1977.

The appeal is based upon the insufficiency of the charges and alleged errors in the conduct of the

hearing. In addition, Appellant has submitted a motion for reinstatement on the grounds that her appeal to the State Board of Education was delayed almost one year because of the delay in forwarding the record.

PART II

FINDINGS OF FACT

A.

The appeal presently before the State Board of Education was made in writing to the local superintendent on May 17, 1976. On May 18, 1976, the court reporter was notified to transcribe the testimony. Appellant inquired about the transcript on August 10, 1976, and again on January 5, 1977. On February 17, 1977, the court reporter filed an affidavit which stated that he had been unable to transcribe the testimony because of the unexpected workload imposed upon him by the court and the direction of the judge to attend to felony matters.

The Appellee maintains that the delay in the filing of the transcript was not due to any actions of the Appellee. During oral argument, counsel for Appellant agreed. The delay, therefore, was solely the fault of

the court reporter. Under the circumstances, both Appellant and Appellee made reasonable efforts to obtain the transcript and have the record forwarded to the State Board of Education.

B.

Appellant was charged with failing to stand outside her room to help discipline the students during changes in classes. The Local Board argues that this amounted to insubordination. The principal testified that during the first and second quarters of school, he checked on the Appellant two or three times each week and found her standing outside her classroom only twice. The evidence revealed that the Appellant's classroom was one of two in the entire school which opened to the outside of the school building. There was a cover over the walkway leading from the door, but the sides were not enclosed and the walkway was exposed to the elements. Appellant stood inside the classroom and observed the students going from and coming to her class and was in a position to maintain discipline.

The instructions that the teachers were to stand outside their rooms were apparently given to the teachers at the beginning of the school year as part of other

general instructions or were contained in a teacher's handbook. There was no evidence that the principal discussed the matter with Appellant. There was no evidence that Appellant refused to stand outside her classroom. The evidence discloses that Appellant felt she was accomplishing her duty when she stood inside her classroom and she was never instructed otherwise.

The photographs introduced into evidence without objection show that the students exited directly from the classroom so they would be in sight if Appellant stood inside the classroom. The situation was not the same as where the students would exit into a hallway that ran parallel to the classroom such that they would be out of the sight of someone standing inside the classroom.

The Hearing Officer concludes that there was insufficient evidence to establish that Appellant was insubordinate by standing inside her classroom to observe the students rather than standing outside the classroom exposed to the elements.

C.

Appellant was charged with being out of her room and leaving her students unattended on a number of occasions. The Local Board urges that this constituted wilful neglect of duties.

The principal testified that on at least six specific dates, he went to Appellant's classroom and found that the students were unattended. Upon further search, he found her in the teacher's lounge where the nearest restroom facilities were located. This normally occurred five or ten minutes after the class periods had started. Appellant testified that she did not leave her students unattended. She claimed that it was always possible to get another teacher to come in and supervise the students if she had to be absent.

The evidence, therefore, is conflicting. On review, however, the State Board of Education has adopted the "any evidence" rule. Palmer v. Putnam County Bd. of Educ., Case No. 1976-8; Kauffman v. Putnam County Bd. of Educ., Case No. 1976-9. Under this rule, the State Board of Education will not weigh the evidence on appeal, and where there is some evidence to support the decision of the trier of fact, that decision will be upheld on appeal. Appellant, therefore, did allow her classrooms to be unattended for at least five to ten minutes after the classroom period had started.

D.

Appellant was charged with permitting two students to leave her classroom contrary to instructions from the

principal that certain students were not to be allowed out of the classroom. The Local Board argues that this constituted insubordination.

The principal testified that he found one student in the lunch room helping the janitor on two occasions, and that he found another student walking "between the buildings and in the hall." The principal asked the students whose class they were supposed to be in and determined they were from Appellant's class. Appellant testified that she had received permission from the principal to allow the student to work in the lunchroom during a study hall period. In addition, the principal had specifically requested that the student be excused from the study hall to work on a project in the gym or on the athletic field. Appellant did not know anything about the student found walking between the buildings.

There was no evidence introduced to establish that the students were wrongfully out of their classes, or that Appellant had knowledge of and permitted the specific absences. The only facts established were that there was a policy of not permitting the students out of the classroom, and the students were out of the classroom. Without a showing that the students had been in Appellant's classroom and that Appellant then gave permission to the students to

leave her classroom for nonessential reasons, the Local Board failed to show that there was any insubordination.

E.

It was alleged that several parents had called the principal and requested that their children not be placed in Appellant's classroom. It was also charged that on several occasions the principal visited the janitor's room adjacent to Appellant's classroom and found the classroom noisy with very little work being done. The Local Board urges that these charges amount to incompetency and wilful neglect of duties.

Both the superintendent and the principal testified that the proper method of evaluating a teacher was for the evaluator to visit the classroom on a number of occasions and observe the teaching methods being employed. The evaluator then should give constructive suggestions to the teacher. Afterwards, the evaluator should revisit the classroom to see if the suggestions have been implemented. In this case, this method of evaluation was not followed. The principal testified that he was busy during the period involved and unable to make a formal evaluation.

Instead, the principal evaluated the Appellant by entering the janitor's room, which was beside the

Appellant's classroom, on a number of occasions. From this position, he was able to hear the noise level from the classroom through the eight-inch cement block wall that separated the two rooms, but he was unable to observe what activity was taking place in the room. The principal also testified that Appellant was an average teacher in some areas and below average in other areas.

The superintendent testified that he had been in Appellant's classroom, but that the class period may have been over with when he was in the room. Additionally, his recommendation not to renew Appellant's contract was based upon the recommendation of the principal, and he did not have any personal knowledge of Appellant's ability as a teacher.

There was no testimony from any of the parents concerning the requests that children not be placed in Appellant's class.

Based upon the evidence submitted, the Local Board has failed to establish a prima facie case that Appellant was incompetent and wilfully neglected her duties. The personal standards of evaluation set forth by both the superintendent and the principal were not followed. Appellant was not counselled by the principal and there

was no effort to determine or explain the cause of or reason for the noise that issued from the classroom. The simple fact that the classroom was noisy does not, by itself, establish that Appellant was incompetent or wilfully neglecting her duties. For example, the principal testified that on one occasion, he heard noise coming from the classroom above the janitor's room and, upon investigation, determined that the students were involved in a science project which required movement in the room. Appellant testified that she taught sections on mythology and drama which necessarily involved movement, talking, and noise within the classroom. Appellant's classes may have been noisy, but it was never established that the noise resulted from or evidenced incompetency or wilful neglect of duties.

F.

Appellant was charged with being uncooperative in the first and second quarter scheduling by not wanting to take her share of the student load. The Local Board urges that this amounted to insubordination and wilful neglect of duties.

The quarter system was newly instituted in the school at the beginning of the 1975-76 school year. The principal established a registration committee composed of

teachers. This registration committee was charged by the principal with the duty of getting the students registered in their various classes.

The registration process became confused. One teacher testified that the students were "almost as confused as the teachers were. . . ." At some time during this process, some disagreement arose between Appellant and the registration committee. This disagreement involved how the students would be grouped in their assignments to the various teachers.

The principal initially testified that the Appellant refused to take some of the students that were assigned to her. Later, however, he testified that Appellant did not refuse to take any of the student assignments which he asked her to take. Other teachers testified that there was some disagreement between the Appellant and members of the committee, but there was no direct testimony that Appellant refused to take any assignment made by the committee. In one incident, a teacher testified that she was told by some students that they were unable to sign up for Appellant's class. This particular teacher went to the principal and received instructions that the teachers were to take the students regardless of whether they wanted the

students. These instructions were announced to the teachers. The teacher then testified:

"Q Thereafter, did she [Appellant] refuse to accept additional students?"

"A Well, that was at the end of the day and I really can't say if she refused after that point or not, it was close to the end of the day."

The testimony concerning the disagreement between the Appellant and the registration committee consumes a large portion of the testimony, but there is no direct evidence or testimony that Appellant refused to take certain pupils in her classroom. Appellant did disagree with the members of the registration committee, but she did not refuse any direct requests of the principal.

There was also testimony that Appellant changed students on the registration cards after the cards had been grouped by the registration committee. The testimony, however, was incomplete and did not definitely establish that Appellant had changed what the registration committee had accomplished.

The evidence submitted was insufficient to establish that Appellant was insubordinate or wilfully neglected her duties.

G.

The Appellant was charged with entering the "vault" in the principal's office and taking pens or pencils without paying for them. Appellee argues that this amounted to insubordination.

The principal testified that at the beginning of the school year, he asked the teachers not to go into the vault to obtain pens and pencils. He then testified that the teachers were supposed to pay for the pens and pencils they obtained. During the school year, the principal observed the Appellant taking pens or pencils from the vault on two occasions and she did not pay for them. The Appellant testified that she did not have any knowledge of taking any pens without paying for them.

Although the testimony is in conflict, the Hearing Officer concludes that there is sufficient evidence to establish that the Appellant took pens or pencils from the vault without paying for them. Such action, however, does not constitute insubordination in that the principal, although he observed the taking, did not make any statement to Appellant or ask her for payment. By his actions, the principal condoned the actions of Appellant and waived any charge of insubordination.

H.

The Appellant alleges that there were errors of law made in the conduct of the hearing. During the preliminary correspondence before the hearing, counsel for the Local Board wrote to Appellant's counsel that a charge relating to the Board of Trustees was being dropped. During the hearing, the superintendent was permitted to testify, over objection, that he had not recommended renewal because the school trustees had written a letter to him recommending that Appellant's contract not be renewed. The chairman of the local board ruled that the testimony was admitted for the purpose of explaining the action of the superintendent.

Since the charge relating to the trustees was dropped before the hearing, the admission of this testimony was unnecessary to explain the conduct of the superintendent. The testimony could only have had a harmful effect on Appellant's case.

The Appellant alleges further error was committed when the Local Board permitted a witness to testify, over objection, that Appellant was occasionally late for school. None of the charges specified that Appellant was charged with being late. Additionally, the Local Board refused to

let a witness testify on Appellant's behalf because the witness had remained in the hearing room throughout the proceeding. All of the witnesses had been asked to leave the hearing room until they were to give testimony. Appellant had not intended to call this person as a witness, but during a recess of the proceeding, the witness came forward and stated that she had information on Appellant's behalf that was different than that testimony given against Appellant.

PART III

CONCLUSIONS OF LAW

A.

Of all the charges made against Appellant, the only one which has any substance is the charge that Appellant left her room unattended on occasion to use the restroom facilities. The principal discovered Appellant in the teacher's lounge but did not take any action, or mention to Appellant the seriousness with which he viewed Appellant's action. The record does not disclose that the principal ever evidenced any concern to Appellant about finding her in the teacher's lounge after the class periods were

to have started. If the actions of the Appellant were of such a serious nature that she could be considered to have wilfully neglected her duties to the extent that her contract should not be renewed, the principal should have given Appellant some indication or warning that her actions were not acceptable. This is not to say that every circumstance requires a warning before a teacher's contract can be non-renewed for neglect of duties, but where there has been a known course of action without any indication on the part of the administration that the course of action is objectionable, then the charge becomes suspect. In the instant situation, the evidence was insufficient to establish that Appellant wilfully neglected her duties by leaving her classroom unattended for short periods of time.

Similarly, the evidence submitted was insufficient to establish that Appellant was insubordinate in disciplining the children entering and leaving her room by standing inside the door rather than standing outside the building exposed to the elements. Also, the evidence was insufficient to establish that she was insubordinate when the principal found two students outside her classroom. A proper foundation was never

established that Appellant was even aware the students were supposed to be in her classroom at the times they were found by the principal.

The method of evaluating Appellant's ability as a classroom teacher fell far short of the personal standards of evaluation of both the principal and the superintendent. The fact that noise was heard issuing from Appellant's classroom, standing alone, is insufficient to establish that Appellant was incompetent and wilfully neglected her duties.

Appellant could not have been insubordinate in having some difference of opinion with her peer group on the methods to be used in placing students. Also, there was not any insubordination when the Appellant agreed to any requests by the principal concerning pupil placement.

B.

Ga. Code Ann. §32-3103c requires a teacher to be given written reasons on which the nonrenewal of a contract is based. The written notice to Appellant did not specify that one of the reasons her contract was not renewed was because she was late in arriving in the morning. Nevertheless, a witness was permitted to

testify over objection that she observed Appellant arriving late. Also, the Local Board refused to permit a witness to testify on Appellant's behalf in rebuttal to the charges that Appellant was insubordinate by not cooperating with the registration committee. The testimony that Appellant was late was damaging and the testimony that the Local Board refused to hear could have gone far in aiding and explaining Appellant's position with respect to the registration committee.

The cumulative effect of the Local Board permitting a witness to testify concerning facts which were outside the scope of the allegations and denying the testimony of a witness favorable to Appellant was an abuse of discretion on the part of the Local Board.

PART IV

RECOMMENDATION

Based upon the transcript, briefs and argument of counsel and the above findings and conclusions, the Hearing Officer hereby determines that the Chattooga County Board of Education did not sustain the burden of proof to nonrenew Appellant's contract. The Hearing

Officer, therefore, recommends that the decision of the Chattooga County Board of Education to nonrenew Appellant's contract be reversed.

L. O. Buckland
L. O. BUCKLAND
Hearing Officer