

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JOANNE ROACH,

Appellant,

v.

BALDWIN COUNTY BOARD OF
EDUCATION,

Appellee.

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CASE NO. 1980-10


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, a copy of which is attached hereto, and after a vote in open meeting,

DETERMINES AND ORDERS, that the Findings of Fact and Conclusions of Law of the Hearing Officer are made the Findings of Fact and Conclusions of Law of the State Board of Education and by reference are incorporated herein, and

DETERMINES AND ORDERS, that the decision of the Baldwin County Board of Education herein appealed from is hereby affirmed.

This 10th day of July, 1980.


THOMAS K. VANN, JR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JOANNE E. ROACH,	:	CASE NO. 1980-10
	:	
Appellant,	:	
	:	
vs.	:	REPORT OF
	:	
BALDWIN COUNTY BOARD OF	:	HEARING OFFICER
EDUCATION,	:	
	:	
Appellee.	:	

PART I

SUMMARY OF APPEAL

This is an appeal by JoAnne E. Roach (hereinafter "Appellant"), a former teacher in the Baldwin County School System, from a decision by the Baldwin County Board of Education (hereinafter "Local Board") that a letter of reprimand written by Appellant's principal was within the Principal's realm of authority, but that all reference to any disciplinary measures would be expunged from her personnel files. Appellant appeals on the grounds her rights to an open hearing were violated and the letter of reprimand written by her principal violated her rights of free speech. The Hearing Officer recommends that the decision of the Local Board be affirmed.

PART II
FINDINGS OF FACT

On December 5, 1979, Appellant wrote a letter to the members of the Local Board questioning certain matters of policy regarding the conduct of fund raising activities within the local school system. Appellant wrote the letter after her principal denied her request for a fund raising activity to be conducted by one of the groups she advised. When the Principal learned that a letter was sent directly to the members of the Local Board, he wrote a letter to Appellant chastising her for not following the established communication channels for resolving policy differences. The letter concluded with a statement that Appellant was being reprimanded for insubordination in that she failed to support policy and failed to adhere to approved channels of communication through her supervisor, principal, superintendent, and board of education.

Appellant appealed the letter of reprimand to the Local Board. The Local Board, however, decided that the letter of reprimand from the Principal was not something they should review, and directed the Superintendent to respond to Appellant. The Superintendent wrote to Appellant and told her the Local Board's decision. He also stated that he thought the Principal was justified

in issuing the letter of reprimand.

Appellant again appealed to the Local Board and asked for a hearing on the grounds the Superintendent issued a letter of reprimand, thus bringing her within the provisions of Ga. Code Ann. §32-2105c, which provides for hearings in the event a reprimand is issued by a superintendent. Additionally, she requested a hearing under the provisions of Ga. Code Ann. §32-910 regarding the interpretation and administration school policy. The Local Board decided to grant Appellant a hearing. When the hearing started, on February 20, 1980, Appellant requested that it be an open hearing. The Local Board, however, denied the request, on the grounds the hearing concerned a personnel matter and also involved a complaint against the Principal, who had not requested an open hearing. At the conclusion of the hearing, the Local Board found and decided that:

- (1) "...there is no letter of reprimand from the Superintendent in Mrs. Roach's permanent personnel file in the County Office."
- (2) "...there is no letter of reprimand from the Principal in Mrs. Roach's permanent personnel file in the County Office."
- (3) "...a Principal in the normal exercise of his duties has a responsibility to evaluate the actions of teachers and other employees under his supervision."

- (4) "...[the Principal's] overall actions in dealing with Mrs. Roach in the matter before this Board have been reasonable and have been a justifiable exercise of his duties as Principal of Baldwin High School."
- (5) "...we direct that no correspondence related to this matter be made a part of Mrs. Roach's permanent personnel file in the County Office and that no reprisals or disciplinary action be taken against Mrs. Roach."

The findings and decisions of the Local Board were communicated to Appellant in a letter from the Superintendent dated February 21, 1980. On February 20, 1980, Appellant submitted her resignation to be effective March 14, 1980. On February 29, 1980, she amended her resignation to be effective on February 29, 1980. The appeal to the State Board of Education was made on March 19, 1980.

During the hearing, it was established that the Principal maintained personnel files on the teachers who were under his charge. These files were not routinely available to the Local Board. Additionally, permanent personnel files were maintained in the central offices of the school system. The permanent files contained the records of the teacher's employment and were the basis for any public disclosures concerning a teacher, e.g., when a teacher sought references upon application for a position with another school system. The permanent files

were not destroyed when a teacher left the employ of the system. The notes and file kept by the Principal, however, were destroyed when either the teacher or the Principal left the employ of the system. From the record, it appears the files kept by the Principal were in the nature of personal notes he made to assist him in evaluating the teachers, rather than being regularly maintained files prescribed by the Local Board. In the instant case, the Principal was no longer employed by the Local Board at the time of the hearing and his records concerning Appellant had been destroyed. Knowledge of the letter of reprimand written by the Principal would not have been available to the Local Board if Appellant had not requested a hearing before the Local Board to protest its issuance.

PART III

CONCLUSIONS OF LAW

Appellant has appealed to the State Board of Education and asks that the letter of reprimand and all other documents pertaining to the matter should be permanently expunged from her permanent personnel file as well as all other files maintained on her by any school administrator including the Principal. She bases her appeal on the grounds that her right to an open hearing

was violated when the Local Board held a closed hearing, and her rights of free speech were violated because of the reprimand given her by the Principal. In the opinion of the Hearing Officer, the issues raised by Appellant, and the relief sought, do not leave anything for decision by the State Board of Education.

The essential relief sought by Appellant was the removal from her personnel file of all records pertaining to the letter of reprimand and the hearing. The Local Board has already ordered the removal of all records pertaining to the letter of reprimand from Appellant's personnel files. Additionally, testimony during the hearing established that records maintained by the principals, which were kept separate and apart from the permanent personnel records, did not form any part of the permanent personnel records maintained by the Local School System, and were not available to the Local Board, were destroyed when the principal left the employ of the system. In the instant case, the Principal who wrote the letter of reprimand was no longer in the employ of the Local Board, and any records maintained by him would no longer be available by the Local Board.

The only possible injury Appellant can point to was a rating of "needs to improve" in the area of professional ethics which was given to her by her immediate supervisor on February 15, 1980. The Local Board did

not take any disciplinary action regarding Appellant and ordered the destruction of all records pertaining to the matter. The Local Board's records, therefore, do not contain any derogatory information regarding Appellant. She is free to obtain employment in any other school system without fear of such information being made available to her new employer. The Hearing Officer, therefore, concludes that Appellant has not been harmed by the decision made by the Local Board. Additionally, the decision of the Local Board provides that Appellant will not be harmed in the future as a result of any action taken by the Principal in issuing the letter of reprimand. Appellant, therefore, has been provided all the relief she has requested or to which she might be entitled.

Since Appellant has not been harmed, it is immaterial whether the hearing conducted by the Local Board was proper because it was not an open hearing. Similarly, the appropriateness of the Principal issuing a letter of reprimand and the Local Board's finding that the reprimand was within the responsibility of the Principal are likewise immaterial. Appellant has not been harmed by any of the actions that have been taken.

PART IV
RECOMMENDATION

Based upon the foregoing findings and conclusions, the record submitted, and the briefs and arguments of counsel, the Hearing Officer is of the opinion Appellant has not suffered any harm and the Local Board's decision was proper. The Hearing Officer, therefore, recommends that the decision of the Baldwin County Board of Education be sustained.

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