

STATE BOARD OF EDUCATION

STATE OF GEORGIA

BETTYE CARLYLE, :  
Appellant, :  
v. : CASE NO. 1981-11  
CHATHAM COUNTY BOARD :  
OF EDUCATION, :  
Appellee. :

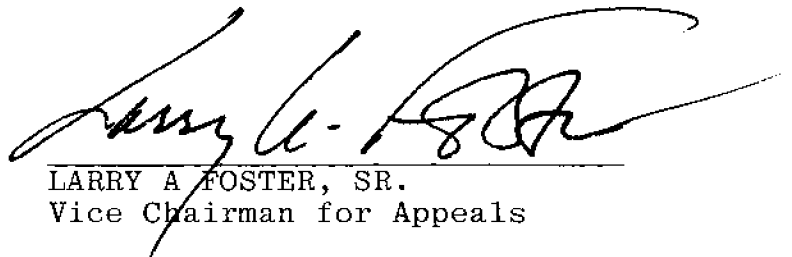
O R D E R

THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, 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 Chatham County Board of Education herein appealed from is hereby sustained.

This 11th day of June, 1981.

  
LARRY A FOSTER, SR.  
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

SANDRA MORRIS, :  
Appellant, :  
v. : CASE NO. 1981-11  
CHATHAM COUNTY BOARD :  
OF EDUCATION, :  
Appellee. :

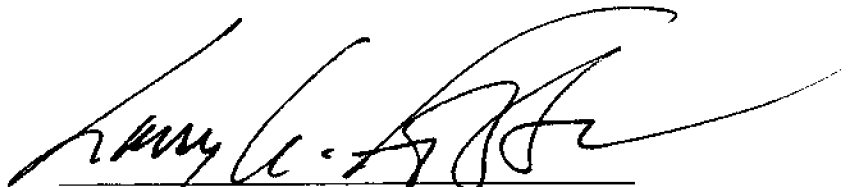
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This 11th day of June, 1981.

  
LARRY A FOSTER, SR.  
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

KIMBERLY TUTAN, :  
Appellant, :  
v. : CASE NO. 1981-11  
CHATHAM COUNTY BOARD :  
OF EDUCATION, :  
Appellee. :

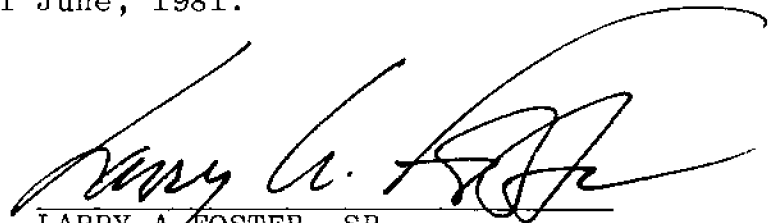
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This 11th day of June, 1981.

  
LARRY A FOSTER, SR.  
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

CINDY POSTELLE, :  
Appellant, :  
v. : CASE NO. 1981-11  
CHATHAM COUNTY BOARD :  
OF EDUCATION, :  
Appellee. :

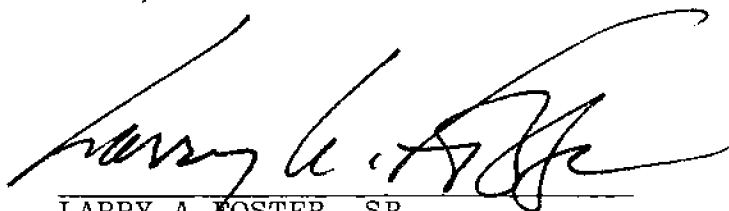
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This 11th day of June, 1981.

  
LARRY A FOSTER, SR.  
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

BETTYE M. CARLYLE, et al.,	:	
	:	
Appellants,	:	
	:	CASE NO. 1981-11
vs.	:	
	:	REPORT OF HEARING OFFICER
THE BOARD OF PUBLIC EDUCATION	:	
FOR THE CITY OF SAVANNAH AND	:	
THE COUNTY OF CHATHAM,	:	
	:	
Appellee.	:	

PART I

SUMMARY OF APPEAL

This is an appeal by Bettye M. Carlyle, Sandra Morris, Cindy D. Postell, and Kimberly Ann Tutan (hereinafter "Appellants") from decisions made by The Board of Public Education for the City of Savannah and the County of Chatham (hereinafter "Local Board") to terminate their employment contracts as teachers because of their failure to maintain valid teaching certificates and failure to fulfill the terms of their contracts. Appellants appealed the decisions of the Local Board on the grounds they were improperly denied an opportunity to present evidence at their hearing before the Professional Practices Commission. The Hearing Officer recommends that the decision of the Local Board be sustained.

PART II  
FINDINGS OF FACT

Each Appellant received a notice in October, 1980 that the Local Superintendent intended to recommend to the Local Board that their teaching contracts be terminated because of their failure to maintain a valid Georgia teaching certificate, and their failure to fulfill the terms of the contract they had signed. The Local Board requested the Professional Practices Commission to conduct the hearings concerning the terminations. On October 28, 1980, hearings were held before a Professional Practices Commission tribunal. Appellants were not issued teaching certificates by the State of Georgia because they had not made passing scores on the Criterion Reference Test. Counsel for the Appellants attempted to introduce evidence concerning the validity of the Criterion Reference Test and the competence of Appellants, but the Professional Practices Commission hearing officer ruled that the evidence was not relevant to the proceeding since the only issue before the body was whether Appellants had valid teaching certificates. Counsel for Appellants objected to not being able to submit the evidence.

Based upon the fact that each Appellant did not have a valid Georgia teaching certificate, the Professional Practices Commission recommended that their teaching contracts be

terminated. On December 17, 1980, the Local Board adopted the recommendations of the Professional Practices Commission and terminated Appellants' contracts. An appeal was filed with the State Board of Education on January 13, 1981.

### PART III

#### CONCLUSIONS OF LAW

The only issue presented by the appeal is whether the Professional Practices Commission tribunal erred in not admitting testimony regarding the validity of the Criterion Reference Test and the competency of Appellants. Appellants contend they were denied due process because of their inability to challenge the Criterion Reference Test.

Ga. Laws 1974, pp. 1045, 1085, as amended (Ga. Code Ann. §32-655a(a) provides, in pertinent part:

"The State Board of Education shall provide, by regulation, for certifying and classifying all teachers ... employed in the public schools of this State, and no such personnel shall be employed in the public schools of this State unless they shall hold a certificate issued by the State Board certifying to his or her qualifications and classifications in accordance with such regulations ...." (Emphasis added).

It is undisputed that Appellants did not hold a valid teaching certificate issued by the State Board of Education.

As contended by the Local Board, Appellants dispute was not with the Local Board because the Local Board could not employ them, regardless of the reasons why they did not have the certificates. The issuance of teaching certificates is a power that has been granted to the State Board of Education, and the Local Board did not have any discretion in whether Appellants were issued certificates or were employed. Since they did not have a teaching certificate, the Local Board was required to terminate them regardless of the validity of the Criterion Reference Test of their competency as teachers. Any evidence concerning these factors was, therefore, irrelevant to the termination proceeding and the Professional Practices Commission tribunal properly refused to admit such evidence.

Appellants contend they were denied due process because of their inability to establish the invalidity of the Criterion Reference Test in the hearing before the Professional Practices Commission tribunal. Appellants, however, should have raised such issues in a proper proceeding when their certificates were denied rather than in the termination proceeding. The validity or invalidity of the Criterion Reference Test relates to the issuance of the teaching certificate rather than to whether Appellants were able to be employed by the Local Board. The Hearing Officer, therefore, concludes that Appellants were not denied due process when the



Professional Practices Commission tribunal ruled that evidence concerning the validity of the Criterion Reference Test and the competency of Appellants would not be received.

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 the Local Board properly terminated the teaching contracts of Appellants and Appellants were not denied due process by an inability to present evidence concerning the validity of the Criterion Reference Test and their competency. The Hearing Officer, therefore, recommends that the decision of the Board of Public Education for the City of Savannah and the County of Chatham be sustained.

(Appearances: For Appellants - Aaron Buchsbaum; David Dunham;  
For Appellee - Steven Scheer; Edward Lee)

  
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L.O. BUCKLAND  
Hearing Officer