

DELLA JENKINS,	:	
	:	
APPELLANT,	:	
	:	CASE NO. 1981-29
v.	:	
	:	REPORT OF HEARING OFFICER
BOARD OF EDUCATION OF THE	:	
CITY OF ATLANTA,	:	
	:	
APPELLEE.	:	

PART I

STATE BOARD OF EDUCATION  
STATE OF GEORGIA

DELLA JENKINS,	:	
	:	
Appellant,	:	
v.	:	CASE NO. 1981-29
	:	
ATLANTA CITY BOARD	:	
OF EDUCATION,	:	
	:	
Appellee.	:	

O R D E R

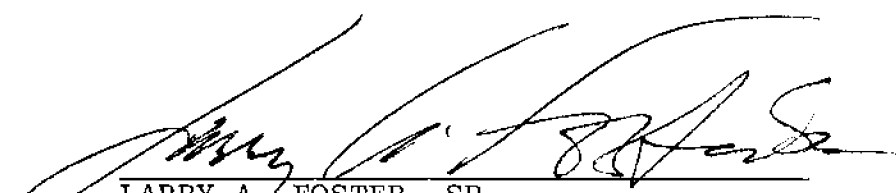
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

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 Atlanta City Board of Education herein appealed from is hereby sustained.

Mrs. Oberdorfer and Mr. Lathem were not present.

This 12th day of November, 1981.

  
LARRY A. FOSTER, SR.  
Vice Chairman for Appeals

with electronic games, and noise was being created which disturbed the other classes. Appellant also did not have lesson plans available when she was requested to produce them.

The hearing tribunal also found that Appellant's instructional skills were below acceptable performance levels. This finding was based upon testimony that Appellant gave handouts to the students which did not relate to the material that was being instructed and which contained numerous spelling errors. In addition, there was testimony that material placed upon the blackboard by Appellant contained misspelled words.

The hearing tribunal found that Appellant was offered assistance on several occasions, but she did not take advantage of the offers. When conferences were scheduled to assist Appellant, she would consistently be absent from school, and would not attempt to reschedule a follow-up conference.

Appellant was also excessively tardy in arriving at school without notifying school officials that she was having problems in arriving at school on time. On one occasion, the principal obtained a substitute teacher and Appellant then arrived at school.

The hearing tribunal noted that the testimony was conflicting in several areas. There were some favorable

observations in her personnel file, and some of the observations were limited. Based, however, upon the total testimony given, the hearing tribunal found that the charges against Appellant were adequately supported by the evidence.

### PART III

#### CONCLUSIONS OF LAW

Appellant contends on appeal to the State Board of Education that there was not sufficient credible evidence before the tribunal to permit it to make its findings, and that the non-renewal of her contract was based upon her age, sex, and the fact that she spoke out against the administration of the school. The credibility of the witnesses, however, is for the fact-finder to determine. The tribunal noted that there were discrepancies in the testimony, but based upon all of the evidence presented, the hearing tribunal concluded that the evidence supported the charges. The State Board of Education follows the rule that if there is any evidence to support the decision of the local board of education, then the decision will not be disturbed upon appeal. Antone v. Greene County Board of Education, Case No. 1976-11. See also, Ransum v. Chattooga County Bd. of Ed., 144 Ga. App. 783 (1978). In the instant case, there was evidence before the hearing tribunal which supports the decision.

Appellants contention that her contract was not renewed because she spoke out against administration policies is not supported by the record. She received an adverse evaluation on March 5, 1981, and the occasion where she spoke out at a meeting occurred on March 13, 1981. It does not, therefore, appear that her nonrenewal was based upon her speaking out at a meeting as contended. The hearing tribunal noted this discrepancy in Appellant's contentions and also noted that Appellant was aware or should have been aware that her performance was not satisfactory in February, 1981 because her class was being observed on a daily basis. The Hearing Officer, therefore, concludes that the recommendation not to renew Appellant's contract resulted from her teaching performance rather than from any comments she made in a faculty meeting about the administration of the school.

There was no evidence presented in support of Appellant's contention that the nonrenewal was based upon her age and sex. If Appellant intended to rely upon this allegation, it was incumbent upon her to present evidence at the hearing before the tribunal in support of the allegation. Since she did not present such evidence, there is no basis for her to raise the issue on appeal. The Hearing Officer, therefore, concludes that the nonrenewal of Appellant's contract was not based upon her age and sex.

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 that the evidence supports the determinations of the hearing tribunal and the decision of the Local Board. The Hearing Officer, therefore, recommends that the decision of the Local Board be sustained.

*L. O. Buckland*

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L.O. BUCKLAND  
Hearing Officer