STATE BOARD OF EDUCATION

STATE OF GEORGIA

CHARLES O. LOGAN,	:	
Appellant,	:	
v.	:	CASE NO. 1981-39
WARREN 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 Warren County Board of Education herein appealed from is hereby sustained.

Messrs. Smith, Temples and Lathem were not present.

This 11th day of February, 1982.

LARRY A. FOSTER, SR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

CHARLES O. LOGAN Appellant, vs. WARREN COUNTY BOARD OF EDUCATION, Appellee.	:	CASE NO. 1981-39

PART I

SUMMARY OF APPEAL

This is an appeal by Charles O. Logan (hereinafter "Appellant") from a decision by the Warren County Board of Education (hereinafter "Local Board") not to renew his contract as a principal for the 1981-1982 school year because of his conviction of a crime involving moral turpitude. The appeal claims that the Local Board's decision was arbitrary, capricious, unsupported by the evidence, without legal basis because there was not a showing that the conviction affected Appellant's ability to serve as an administrator, and the decision improperly relied upon an erroneous assumption of unfitness. The Hearing Officer recommends that the decision of the Local Board be sustained.

PART II

FINDINGS OF FACT

On April 9, 1981, the Local Superintendent notified Appellant that he would not recommend renewal of Appellant's contract as principal for the 1981-1982 school year. Appellant requested a statement of the reasons for non-renewal and was furnished such a statement on May 1, 1981. The Local Board requested the Professional Practices Commission to constitute a tribunal to conduct a hearing in the matter. An initial hearing before the Professional Practices Commission tribunal was scheduled and heard on June 17, 1981, however, due to problems with the transcription equipment, a second hearing was held on September 21, 1981 by consent of counsel for Appellant and the Local System on all procedural matters. The Professional Practices Commission tribunal made findings of fact and recommended that Appellant's contract not be renewed. On October 13, 1981, the Local Board accepted the recommendation of the Professional Practices Commission tribunal and voted not to renew Appellant's contract. Appellant filed an appeal to the State Board of Education on October 30, 1981.

The Professional Practices Commission tribunal found that Appellant has been employed by the Local Board for ten (10) years and had served the last seven (7) years as the principal in an elementary school. On January 29, 1980, a judgment was entered in Federal Court finding Appellant guilty

of knowingly and fraudulently submitting false documents to the Internal Revenue Service concerning income tax deductions he had taken. The Court ordered restitution and sentenced Appellant to spend three (3) weekends in jail and to serve two (2) years on probation. Appellant's contract for the 1980-1981 school year was renewed by the Local Board. Appellant then qualified and ran in the Democratic primary election for the office of Superintendent of Schools in Warren County. He contested the election in Superior Court and a judgment was entered on September 3, 1980, which found that Appellant had been convicted in Federal Court of a crime involving moral turpitude and he was, therefore, ineligible to serve as Superintendent of Schools. As a result of articles which appeared in the local newspaper in connection with both the election and Appellant's contest of the election, it became general knowledge in the County that Appellant had been convicted of income tax fraud and had served a jail sentence on weekends. After these events, the Local Superintendent received complaints from parents in the County about Appellant's employment. In addition, the Local Superintendent was questioned by some students about why Appellant, whom they referred to as "jail bird", was still employed.

The Professional Practices Commission tribunal also found that Appellant enjoyed a reputation among his collegues and other administrators as being an efficient administrator, and

he also enjoyed an excellent reputation among a number of parents and other citizens as an administrator within the Local System.

The Professional Practices Commission tribunal concluded that the position of Principal was one which involved considerable public trust and responsibility, and was a position which was inconsistent with a crime involving moral turpitude and a conviction of fraudulently evading the payment of income taxes. The tribunal concluded that Appellant could not set a proper example as a law abiding citizen, and the filing of false documents with the United States Government for personal monetary benefit was not conduct which was totally personal or private. Based upon its findings and conclusions the Professional Practices Commission tribunal recommended to the Local Board that Appellant's contract for the 1981-1982 school year not be renewed.

PART III

CONCLUSIONS OF LAW

The first ground for Appellant's appeal is that the decision of the Local Board was arbitrary, capricious, and wholly unsupported by the evidence in that there was no evidence that Appellant was less able to lead and set a proper example for his students and testimony elicited during the hearing showed that he was respected by other school administrators

and enjoyed a good reputation in the community. The Local Board argues that there was no question Appellant was convicted of a crime involving moral turpitude and the public had general knowledge of the conviction. In addition, the testimony of the Local Superintendent showed that Appellant had lost respect among some of the students and there were complaints by the parents. The State Board of Education follows the rule that if there is any evidence to support the decision of a local board of education, then the decision will not be disturbed upon review. See, Ransum v. Chattooga County, 144, Ga. App. 783 (1978); Antone v. Greene Cty. Bd. of Ed., Case No. 1976-11. Although Appellant apparently had the support of many of the citizens of the community, the only evidence concerning his effectiveness in the school was given by the Local Superintendent. The actions of the students in the school were indicators that Appellant had lost respect and effectiveness within the Local System. The Hearing Officer, therefore, concludes that the decision of the Local Board was not arbitrary and capricous, but was supported by the evidence.

Appellant's second ground for appeal is that there was no legal basis for the non-renewal because the off-the-job conduct was not related to Appellant's ability to perform as an administrator, and he was able to effectively exert control and authority over the students and the teachers and obtain support of the public and parents. When conduct alone is

called into question as a basis for renewing or non-renewing the contract of a teacher, there must be some showing of a relationship between the conduct and the teacher's ability to perform. Where, however, there has been a conviction and the conduct has been determined to be criminal and of a nature which involves moral turpitude, the nesessity of establishing a relationship between the conduct and the ability to perform as an employee does not exist. As pointed out by the Professional Practices Commission tribunal, the position of principal is one of public trust and confidence which is inconsistent with conviction of a crime involving moral turpitude. See, Dominy v. Mays, 150 Ga. App. 187 (1979). The Hearing Officer, therefore, concludes that there was a legal basis for the non-renewal of Appellant's contract for the 1981-1982 school year.

Appellant's third ground for appeal relies on the argument that the decision of the Local Board was improperly based upon the irrebutable presumption that a plea in Federal Court rendered Appellant unfit to teach. Appellant's argument is based upon the testimony of the Local Superintendent that he would not recommend anyone for renewal who had been convicted of a crime. Although the Local Superintendent may have felt constrained not to recommend the contract of anyone convicted of a crime of moral turpitude, the Local Board was the body which was charged with making a decision on the matter. A review of the record does not indicate that the Local Board

would or would not accept the Superintendent's recommendation, nor whether the Local Board adopted an irrebutable presumption that conviction of a crime involving moral turpitude would render an employee unfit to serve. The Hearing Officer, therefore, concludes that the decision of the Local Board has not been shown to be based on an irrebutable presumption.

PART IV

RECOMMENDATION

Based upon the foregoing findings and conlcusions, the record submitted, and the briefs and arguments of counsel, the Hearing Officer is of the opinion that the decision by the Local Board was supported by the evidence and was not arbitrary and capricious. The Hearing Officer, therefore, recommends that the decision of the Local Board be sustained.

Appearances: For Appellant - Katrina L. Breeding; Vernon Jerome Neely; David Dunham; For Local Board - Thomas R. Burnside; Randall Evans, Jr.

L. O. Buckland

L.O. BUCKLAND
Hearing Officer

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JOSEPH M.,	:	
Appellant,	:	
v.	:	CASE NO. 1981-40
JASPER 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 Jasper County Board of Education herein appealed from is hereby sustained.

THE STATE BOARD OF EDUCATION is of the opinion that codes of conduct instituted within any particular school should be reviewed and passed upon by the local board of education so that administrators and students are aware of the local board's position, conflicts in procedures are resolved, and some degree of uniformity in disciplinary actions exists within the school system.

Mr. Owens dissents from the decision of the State Board of Education, and Mrs. Oberdorfer concurs with the dissent.

Messrs. Smith, Temples and Lathem were not present.

This 11th day of February, 1982.

LARRY A. FOSTER, SR.
Vice Chairman for Appeals

I dissent from the decision of the majority because, as I see the evidence, the student herein has been subjected to punishment twice -- first by serving the ten-day suspension provided for in the code of conduct, and then by being suspended for the remainder of the quarter by the decision of the local board. I cannot, and do not, condone the student's actions in retaliating, but I feel the student was wronged when he was denied the football jacket he had legitimately earned.

The code of conduct provided for a ten-day suspension and the student served this time. I can only view the subsequent decision of the local board as too severe.

Richard C. Owens

RICHARD C. OWENS

Mrs. Oberdorfer concurs with this dissent.