

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JACQUELINE N. FINLEY,

)

Appellant,

)

v.

)

CASE NO. 1983-26

ROME CITY BOARD OF EDUCATION,

)

Appellee.

)

O R D E R

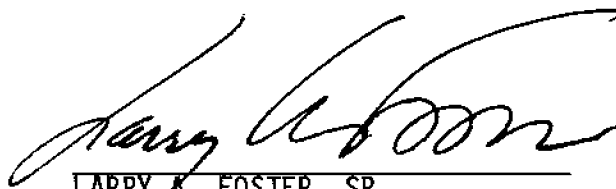
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

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

All members were present.

This 10th day of November, 1983.



LARRY A. FOSTER, SR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JACQUELINE N. FINLEY,)	
)	
Appellant,)	
)	CASE NO. 1983-26
v.)	
)	
ROME CITY BOARD OF EDUCATION,)	
)	
Appellee.)	REPORT OF HEARING OFFICER

This is an appeal by Jacqueline Finley (hereinafter "Appellant") from a decision by the Rome City Board of Education (hereinafter "Local Board") not to renew her contract as a librarian. Appellant appealed on the grounds she was denied due process because the Local Board did not issue her subpoenas in a timely fashion, and the evidence was insufficient to establish that she was incompetent. The Hearing Officer recommends that the decision of the Local Board be sustained.

PART II

FINDINGS OF FACT

Appellant had been employed by the Local Board for approximately nineteen years, and served as a librarian for the past fifteen years. On April 14, 1983, Appellant was notified by the Local Superintendent that he would not recommend renewal of her contract for the 1983-1984 school year. Appellant requested a hearing before the Local Board and a list of the charges. On May 6, 1983, Appellant was given the list of charges and notified that the hearing would be held on June 2, 1983. The hearing before the Local Board was held as scheduled,

and on June 4, 1983, the Local Board decided not to renew Appellant's contract. Appellant filed an appeal to the State Board of Education on June 10, 1983.

In the fall of 1981, a new principal was assigned to the school in which Appellant worked as a librarian. The previous principal had held his position for approximately fifteen years. During the tenure of the previous principal, Appellant did not have any teaching responsibilities. When the new principal arrived, however, Appellant was assigned the responsibility of teaching the elementary children certain library skills.

There was testimony that during the fall of 1982, Appellant grabbed the arm of one of her students while disciplining the student. Appellant's fingernail broke the student's skin and caused bleeding. The principal investigated the incident and decided the student's story was credible. Appellant was suspended without pay for three days as a result of the incident.

On January 13, 1983, another student was suffering from a cold or other malady when he came to Appellant's class. During the class period, the student sneezed and phlegm or mucous went onto his paper. The student approached Appellant at the front of the class and asked what he should do. Appellant took the student's paper and wiped the phlegm or mucous onto the student's jacket. Appellant was suspended for ten days without pay for this incident.

There was testimony that Appellant had difficulty instituting a library skills curriculum. The task was assigned to

Appellant during the fall of 1981, but she had not completed the task at the time the hearing was conducted. Appellant testified she could not complete the program until there were sufficient funds available for her to purchase necessary materials.

Appellant was counselled by the principal on December 1, 1982, that she was deficient in a number of areas and that she would have to improve her performance in order to have her contract renewed for the 1983-1984 school term. The principal also gave Appellant written evaluations during this period and rated Appellant satisfactory.

At the beginning of the hearing, Appellant's counsel objected to the proceedings and made a motion to dismiss because he claimed Appellant had not been given the subpoenas she requested from the Local Board until the day before the hearing and that she was required to serve them rather than the Local Board. The Local Board denied the motion. There was no motion made to continue the hearing in order for Appellant to deliver the subpoenas, and there was no offering of the testimony that would have been given by the witnesses, or any showing that the witnesses were unavailable.

PART III

CONCLUSIONS OF LAW

Appellant claims she was denied due process because the Local Board did not deliver subpoenas to her until the day before the hearing, and the Local Board required her to serve the subpoenas rather than serving them itself. The record shows that

Appellant was notified on May 31, 1983, that the subpoenas she requested were available for her to pick up. There was no showing that any witnesses were unavailable, or that the failure of any subpoenas to be delivered resulted in Appellant's being unable to present her case or caused any harm. Appellant did not request a continuance of the hearing in order to permit the subpoenas to be served. The Hearing Officer concludes that Appellant was not denied due process because the Local Board failed to cause the subpoenas to be served on the witnesses, but, instead, caused Appellant to serve the subpoenas, or because the subpoenas were issued on May 31, 1983, when the hearing was conducted on June 2, 1983.

Appellant also claims that the evidence was insufficient to permit nonrenewal of her contract. 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 review. Ransum v. Chattooga County Bd. of Ed., 144 Ga. App. 783, 242 S.E.2d 374 (1978); Antone v. Greene County Bd. of Ed., Case No. 1976-11. In the instant case, there was evidence before the Local Board which could lead the Local Board to conclude that Appellant had scratched one child while disciplining the child, and that Appellant wiped phlegm or mucous onto the coat of another child in front of his class. There was also evidence available that Appellant was unable to institute the library skills curriculum. Based upon this evidence, the Local Board could decide not to renew Appellant's contract because of incompetency and other good and sufficient causes.

PART IV

RECOMMENDATION

Based upon the foregoing findings and conclusions, the record submitted, and the briefs of counsel, the Hearing Officer is of the opinion Appellant was not denied due process, and there was evidence available from which the Local Board could decide not to renew Appellant's contract because of incompetency and other good and sufficient causes. The Hearing Officer, therefore, recommends that the decision of the Local Board be sustained.



L. O. BUCKLAND
Hearing Officer