

STATE BOARD OF EDUCATION

STATE OF GEORGIA

MARGARET D. JAMES,)
Appellant,)
v.) CASE NO. 1984-1
CLARKE COUNTY BOARD OF EDUCATION)
Appellee.)

O R D E R

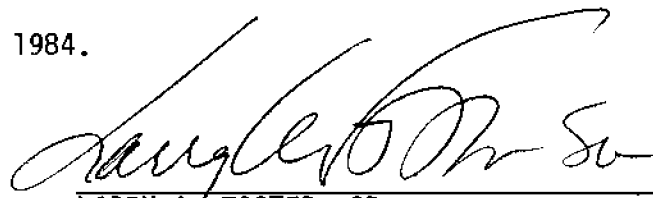
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

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 Clarke County Board of Education herein appealed from is hereby sustained.

Mr. Smith and Mr. Temples were not present.

This 10th day of May, 1984.



LARRY A. FOSTER, SR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

MARGARET JAMES,)	
)	
Appellant,)	
)	
v.)	CASE NO. 1984-1
)	
CLARKE COUNTY BOARD)	
OF EDUCATION,)	
)	
Appellee.)	REPORT OF HEARING OFFICER

PART I

SUMMARY OF APPEAL

This is an appeal by Margaret D. James ("hereinafter "Appellant") from a decision of the Clarke County Board of Education (hereinafter "Local Board") to terminate her teaching contract because of incompetency, insubordination, willful neglect of duties, and other good and sufficient causes. The appeal is based upon Appellant's arguments that the Local Board improperly dismissed her because of her exercise of a constitutional right of free speech, that she was denied due process because the Local Board failed to make findings of fact, and because the Local Board erred in the conduct of the hearing by permitting certain letters into evidence. The Hearing Officer recommends that the decision of the Local Board be sustained.

PART II

FINDINGS OF FACT

On November 16, 1983, the Local Superintendent wrote a letter to Appellant which stated that she was suspended, with

pay pending a hearing before the Local Board, and that the Local Superintendent would recommend Appellant's dismissal on the grounds of incompetency, insubordination, willful neglect of duties, and other good and sufficient causes. The letter listed specific instances and situations which supported the charges. In addition, the witnesses who would testify concerning Appellant's actions were listed. The hearing before the Local Board was held on December 8, 1983.

At the time of the hearing, Appellant was a second grade teacher and had taught for the Local System for twelve years. During the 1981-1982 school year, Appellant reported to her principal a number of instances of other teachers talking about her and of items missing from her room. Appellant refused to disclose the names of the teachers she was accusing. During the 1982-83 school year, Appellant accused another teacher of spreading rumors, accused a teacher of having an aide go through Appellant's papers, and accused another teacher of improperly having keys to a cabinet in her classroom. Appellant also made accusations against her aide and told the aide not to enter the classroom unless Appellant was in the classroom. As a result, the aide was moved out of the classroom for the remainder of the school year. There also was testimony that Appellant accused her principal of going through her purse, but Appellant denied she had ever made such an accusation. Appellant also made accusations that the intercom system was

being used to listen in to her classroom. In total, Appellant accused seven teachers and her principal of wrongdoing. There were thirty-six teachers at the school.

At the end of 1982-83 school year, Appellant's principal recommended Appellant's transfer to another school. She began teaching the second grade at another school under another principal in August, 1983. Before school began, Appellant called her new principal and asked whether the principal had heard rumors which were being circulated about her. Appellant dismissed the matter when the principal began asking questions. On the second day of school, Appellant alleged that the receptionist was talking about her. On September 27, 1983 her new principal had a conference with Appellant concerning an aide who felt she had been accused by Appellant about some missing study materials. Appellant's principal had also directed all of the teachers to prepare a letter to the parents which explained the instructional program. Appellant was the only teacher who did not turn in a letter to the principal, but she claimed at the hearing that she sent the letter. At an October 13, 1983 conference with the principal, Appellant claimed that the letter instructing her to write to the parents had been taken from her box and she had not received notice.

Appellant was the only new teacher in the wing. The new principal testified that after Appellant arrived, the morale

of her teachers began going down because of Appellant's accusations. One teacher asked for a mid-term transfer. The principal had to spend an inordinate amount of time with Appellant and in attempting to investigate Appellant's accusations. In addition, the noise level in Appellant's classroom was loud and the other teachers requested the principal to take action.

There was conflicting testimony concerning the placement of a transfer student. The student was tested by the instructional lead teacher and placed in a Level IV reading group. The student's parents were concerned about the student's placement because she seemed to be able to work at home. In addition, the student began having headaches, stomach aches, and was depressed about going to school. Six weeks after the initial placement, the student was retested and passed all of the tests necessary to place her in Level VI. Appellant testified that she was aware the student had been misplaced, and that she had attempted to have the student retested. In addition, she testified that she had been moving the student forward. The principal testified that Appellant was unaware that the Student was misplaced.

Following the hearing, the Local Board voted to terminate Appellant's teaching contract. The Local Board did not make any findings of fact.

PART III

CONCLUSIONS OF LAW

Appellant's appeal to the State Board of Education claims that the Local Board violated her free speech and due process rights because she was dismissed as a result of her registering complaints against other teachers. Appellant also claims that the Local Board violated her due process rights because it did not make any findings of fact, and because the Local Board permitted the introduction of a letter which contained hearsay evidence.

As pointed out by the Local Board, this case is not a free speech case. Appellant's dismissal was the result of the problems she was creating within the school, and her inability to effectively work with the other teachers. In two different school settings, Appellant accused several teachers of stealing from her, of entering her room, of spreading rumors about her, and of spying on her. In both situations, the principals had to spend an excessive amount of time with Appellant and in investigating the charges made by Appellant. Appellant's accusations were frequently made against unnamed teachers. On one occasion, Appellant accused her principal of stealing from her.

Appellant's free speech claim is comparable to the person who cries "fire" in a crowded theatre and then claims to be protected by free speech. Instead of yelling "fire", Appellant has been saying "thief", without anything to substantiate her charges. In addition, her charges were directed against the

staffs of two different schools, thus indicating that regardless of where the Local Board placed Appellant, the same charges would have been made. Free speech is a constitutionally protected right, but Appellant was not dismissed because of her exercise of free speech rights. Instead, she was dismissed because of her inability to work with the other teachers, her failure to follow the principal's directives, her failure to maintain classroom control, and her failure to take action concerning a student who was inappropriately placed in her class. The Hearing Officer, therefore, concludes that Appellant's free speech rights were not abridged, and there were sufficient other reasons for dismissing Appellant.

The State Board of Education follows the rule that if there is any evidence to support the decision of the Local Board, the State Board will not reverse the decision upon review. See, Ransum v. Chattooga Cnty Bd. of Ed., 144 Ga. App. 783 (1978); Antone v. Greene Cnty Bd. of Ed., Case No. 1976-11. Appellant's activities caused dissension and an adverse impact on the morale of the other teachers. There was evidence that Appellant failed to take action, or failed to recognize that action should have been taken when a student had been misplaced in her reading level. All of the teachers had been directed by the principal to send letters to the parents at the beginning of school which outlined what their children would have during the coming year. Appellant was the only one who did not send such a letter. There was sufficient evidence presented to the Local

Board to substantiate its finding that Appellant was incompetent, insubordinate, and willfully neglected her duties. The Hearing Officer, therefore, concludes that there was some evidence before the Local Board to sustain its decision.

Appellant's argument that the Local Board violated her due process rights because it failed to make findings of fact has previously been decided adversely to Appellant. In Kelson v. Bd. of Public Ed., Case No. 1982-15, the local board did not make findings of fact and the State Board of Education decided that such findings were not necessary. Although such findings would be helpful to the reviewing body, they are not always necessary in order to review the decision made. In the instant case, there was evidence presented which supported all of the charges made, and the Local Board could have found against Appellant and dismissed her on any of the charges. The Hearing Officer, therefore, concludes that Appellant's due process rights were not violated by the failure of the Local Board to make findings of fact.

Appellant also claims she was denied due process because the Local Board permitted the introduction of a letter which contained hearsay evidence. The Hearing Officer, however, concludes that Appellant was not harmed by the introduction of the letter. There was sufficient other evidence introduced at the hearing to permit the Local Board to make its decision. In addition, the letter did not go substantially beyond the testimony of the witnesses at the hearing. The Hearing Officer,

therefore, concludes that Appellant's claim is insufficient to reverse the decision of the Local Board.

PART IV

RECOMMENDATION

Based upon the foregoing findings and conclusions, the record presented, and the briefs and arguments of counsel, the Hearing Officer is of the opinion that the Local Board did not violate any of Appellant's constitutional rights, and that there was evidence presented to the Local Board which supports the Local Board's decision. The Hearing Officer, therefore, recommends that the decision of the Local Board be sustained.



L. O. BUCKLAND
Hearing Officer