STATE BOARD OF EDUCATION

STATE OF GEORGIA

BOB WATSON,	)	
Appellant,	)	
v.	)	CASE NO. 1984-3
HOGANSVILLE 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 Hogansville City Board of Education herein appealed from is hereby sustained.

Mr. Taylor abstained.

Mr. Foster was not present.

This 9th day of August, 1984.

JOHN M. TAYLOR
Acting Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

BOB WATSON, Appellant,	)	
	)	CASE NO. 1984-3
v.	)	
HOGANSVILLE CITY BOARD OF EDUCATION,	)	REPORT OF HEARING OFFICER
Appellee.	)	

PART I

SUMMARY OF APPEAL

This is an appeal by Bob Watson (hereinafter "Appellant") from a decision by the Hogansville City Board of Education (hereinafter "Local Board") to terminate his contract as superintendent of schools for good and sufficient cause due to the manner in which he accounted for school funds. The appeal is based upon Appellant's contentions that the Local Board did not have the authority to terminate his contract and that the evidence was insufficient to support the decision. The Hearing Officer recommends that the decision of the Local Board be sustained.

PART II

FINDINGS OF FACT

Appellant was employed as superintendent by the Local Board in 1982. On February 13, 1984, Appellant was given written notification that the Local Board would conduct a hearing on February 25, 1984 on charges of misappropriation of funds and failure to carry out school policies because of the submission

of improper reimbursement vouchers, improper use of the telephone for personal purposes, failure to deposit Local Board funds received from an insurance company, and eating meals in the school cafeteria without paying.

The hearing was conducted on March 3, 1984. At the conclusion of the hearing, the Local Board found that Appellant had used school funds to purchase coffee cups as personal Christmas presents for the principals, secretaries, and Local Board members; had submitted a reimbursement voucher for $16.00 for staff meals when the meals actually cost $4.00; had failed to deposit an insurance company check received for damage to the school automobile and had converted the check into cash; had submitted a voucher for $63.22 for staff development to cover the expenses of a party for a departing bookkeeper; had eaten lunches in the school cafeteria without payment in violation of board policy, and has used $13.12 of Local Board funds for personal purposes. Based upon these findings, the Local Board terminated Appellant's contract as superintendent for good and sufficient cause under the provisions of O.C.G.A. § 20-2-940 (the Fair Dismissal Law).

PART III

CONCLUSIONS OF LAW

Appellant contends on appeal that the Local Board was without authority to terminate his contract under the provisions of O.C.G.A § 20-2-940(8) because he was not a teacher, principal, or employee, as contemplated by the statute. He also contends

that the evidence was insufficient to establish any proper grounds for termination of his contract.

Appellant's first argument is that the provisions of O.C.G.A. § 20-2-940(8) are applicable only to teachers, principals, and other employees, but that, as a superintendent, he is not an employee of the Local Board. Instead, according to an unofficial opinion of the Attorney General (1977 Ops. Atty. Gen. U77-17), he is deemed to be a public officer. Since he does not fall within any of the classifications covered by O.C.G.A. § 20-2-940, the Local Board did not have the authority to remove him for good and sufficient cause. Appellant also argues that O.C.G.A. § 20-2-106, which covers the grounds for removal of school superintendents, does not list "good and sufficient cause" as a ground for dismissal.

The Local Board argues that the Attorney General's unofficial opinion applies only to elected superintendents, and that Appellant, since he was appointed rather than elected, is an employee and subject to the provisions of O.C.G.A. § 20-2-940. Additionally, the Local Board argues that O.C.G.A. § 20-2-106 provides only minimal due process standards, and, by providing Appellant with the due process standards of O.C.G.A. § 20-2-940, the Local Board provided Appellant with greater due process than warranted under O.C.G.A. § 20-2-106.

Appellant's arguments overlook the fact that he was not charged with "other good and sufficient causes" in the February

13, 1984 notice. Instead, the notice provides that he was suspended on charges of misappropriation of funds and for failure to carry out school policies. The letter of charges did not reference a particular statute the Local Board was proceeding under. Assuming the Fair Dismissal Law is not applicable to superintendents, it appears that the Local Board was proceeding under the provisions of O.C.G.A. § 20-2-105, which permits suspension for "incompetency, willful neglect of duty, misconduct, immorality, or the commission of a crime involving moral turpitude and for other good and sufficient cause." The Local Board had the authority to provide for permanent suspension for other good and sufficient cause upon the findings it made. The fact that the Local Board cited the Fair Dismissal Law as the basis for its action may have been erroneous, but the error did not cause Appellant any harm since the purpose of notice is to provide an opportunity to prepare for the hearing. The Local Board's cite of the Fair Dismissal Law occurred after the hearing, and Appellant was given an opportunity to prepare. The Hearing Officer, therefore, concludes that the Local Board had the authority to permanently suspend Appellant from his position as superintendent.

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. Ransum v. Chattooga Cnty. Bd. of Ed., 144 Ga. App. 783 (1978); Antone v. Greene Cnty. Bd. of Ed., Case No. 1976-11.

In the instant case, there was evidence that Appellant submitted vouchers for reimbursement which did not reflect the true purpose of the expenditures made. For example, Appellant had a check issued by the Local Board for contract services when the expenditure was for coffee cups furnished to the principals, secretaries, and Local Board members. Regardless of Appellant's reasons or intentions for submitting such vouchers, his actions resulted in expenditures being made for purposes which were not reflected in the books of account of the school system. Additionally, Appellant's actions resulted in school funds being used for personal purposes. The Hearing Officer, therefore, concludes that there was evideence before the Local Board which authorized it to make a decision to permanently suspend Appellant.

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 Local Board had the authority to dismiss Appellant for other good and sufficient cause, and that there was evidence presented to the Local Board which supports its decision. The Hearing Officer, therefore, recommends that the decision of the Local Board be sustained.

L. O. Buckland

L. O. BUCKLAND
Hearing Officer