STATE BOARD OF EDUCATION

STATE OF GEORGIA

KEVIN CORNETT,

:

Appellant,

CASE NO. 1999-17

vs. :

DECISION

BARTOW COUNTY

BOARD OF EDUCATION,

:

Appellee. :

This is an appeal by Kevin Cornett (Appellant) from a decision by the Bartow County Board of Education (Local Board) to terminate his teaching contract based upon charges of immorality and other good and sufficient cause under the provisions of O. C. G. A. § 20-2-940. Appellant claims that the notice of the charges against him was insufficient to give him an opportunity to establish a defense. The decision of the Local Board is sustained.

On January 22, 1999, the Local Superintendent notified Appellant that a recommendation would be made to terminate his contract because of immorality and other good and sufficient cause based upon an ongoing sexual relationship with another teacher on school property. The notice stated that the relationship had been on going since 1995 and that Appellant and the female teacher engaged in sexual conduct while at school. The notice did not inform Appellant of any dates or times the incident were supposed to have occurred. A supplemental notice was issued on February 2, 1999, which stated ha the two engaged in sexual conduct in the coach's office and in the female teacher's classroom early in the morning and late in the afternoon, i.e., at 6:50 a.m. at 5:00 p.m.

Appellant moved to dismiss the proceedings against him because of inadequacy of the notice. A hearing officer appointed to conduct the hearing denied the motion and ruled that the notice was adequate.

On February 2, 1999, the Local Board conducted a hearing on the charges. The female teacher testified that she and Appellant had sexual relations in the school on several occasions. Appellant denied that he had ever engaged in any relations with the female teacher. He also testified that he did not arrive at school early in the morning because he had to take his children to the babysitter. He also testified that he could not have had relations with the female teacher late in the afternoon because he was involved in his coaching activities in the afternoon. After the hearing, the Local Board voted to dismiss Appellant. Appellant then appealed to the State Board of Education.

Appellant claims that the notice given to him was inadequate because it did not identify the dates and times on which any of the incidents occurred. As a result, he claims ha the was unable to establish a defense by being able to call witnesses to establish his whereabouts when each incident occurred. Appellant, however, was informed that the incidents occurred in the morning and late afternoons. He could have brought in witnesses to establish he did not arrive at school until after the incidents allegedly occurred, or to establish that he was engaged in team practice each afternoon. The State Board of Education, therefore, concludes that Appellant could have mounted a defense and that the notice given to him was adequate.

"The Standard for review by the State Board of Education is that if there is any evidence to support the decision of the local board of education, then the local board's decision will stand unless there has been an abuse of discretion or the decision is so arbitrary and capricious as to be illegal. See, Ransum v. Chattooga County Bd. of Educ., 144 Ga. App. 783, 242 S. E. 2d 374 (1978); Antone v. Greene County Bd. of Educ., Case No. 1979-11 (Ga. SBE, Sept. 8, 1976)." Roderick J. v. Hart Cnty. Bd. of Educ., Case No. 1991-14 (Ga. SBE, Aug. 8, 1991). Since there was some evidence – the testimony of the female teacher – before the Local Board, the State Board of Education concludes that the Local Board's decision should not be disturbed.

Based upon the foregoing, it is the opinion of the State Board of Education that Appellant was given sufficient notice and that there was evidence to support the Local Board's decision. Accordingly, the Local Board's decision is SUSTAINED.

This 10 th day of June, 1999.	
	Otis Brumby
	Chairperson