

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JULIA PLUMMER,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 1999-61
	:	
DUBLIN CITY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by Julia Plummer (“Appellant”) from a decision by the Dublin City Board of Education (“Local Board”) not to renew her teaching contract for the 1999-2000 school year. The Local Board’s decision followed the recommendation of a tribunal that found Appellant incompetent and insubordinate and willfully neglected her duties. Appellant claims on appeal that she was denied due process because the tribunal failed to send a timely recommendation to the Local Board, the Local Board’s attorney improperly acted as a hearing officer, and she was improperly denied an opportunity to present evidence on her behalf The Local Board’s decision is sustained.

Throughout the 1998-1999 school year, Appellant’s principal was concerned about Appellant’s ability to maintain her science classroom and properly present the material. Appellant failed to prepare lesson plans, or prepared plans that were not in accordance with the established standards. Students slept in her classes and did not show her any respect, although she referred approximately three times more students to the office for discipline than the average teacher referred. The Local Superintendent notified Appellant on April 13, 1999 that he would not recommend renewal of her teaching contract under the provisions of O.C.G.A. § 20-2-940 because of incompetency, willful neglect of duty, immorality, and insubordination. Appellant asked for a hearing to dispute the charges and a full day hearing was held on July 26, 1999 before a three-member tribunal.

After the hearing was completed, the parties agreed that the tribunal would have 21 days to prepare its recommendation. On August 12, 1999, the tribunal recommended against renewal of Appellant’s contract, but the tribunal’s legal advisor did not forward the recommendation to the Local Superintendent until August 20, 1999. The Local Board received the hearing transcript on August 17, 1999 and issued a decision to adopt the tribunal’s findings and recommendation on August 26, 1999.

On appeal, Appellant claims she was denied due process because the tribunal’s recommendation was given to the Local Board after the 21 days agreed upon at the end of the hearing. O.C.G.A. § 20-2-940(0 provides that “where the hearing is before a tribunal, the tribunal shall

file its findings and recommendations with the local board within five days of the conclusion of the hearing, and the local board shall render its decision thereon within ten days after receipt of the transcript.” As argued by the Local Board, the only critical date set forth in the statute is the date ten days after a local board receives the transcript. If a local board issues a decision within ten days after receiving the transcript, then the number of days a tribunal takes to issue a recommendation has no impact on a teacher or other employee. In the instant case, the Local Board issued its decision within ten days after receiving the transcript, as required by O.C.G.A. § 20-2-940(0). The State Board of Education, therefore, concludes that Appellant was not denied due process because the tribunal’s recommendation was not delivered to the Local Superintendent within the 21 days agreed to at the end of the hearing.

Appellant next argues that she was denied due process because the tribunal’s legal advisor acted outside the scope of his duties by responding to an objection before the tribunal asked for advice. O.C.G.A. § 20-2-940(e)(4) provides, in part:

All questions relating to admissibility of evidence or other legal matters shall be decided by the chairman or presiding officer, subject to the right of either party to appeal to the full local board or hearing tribunal, as the case may be; provided, however, the parties by agreement may stipulate that some disinterested member of the State Bar of Georgia shall decide all questions of evidence and other legal issues arising before the local board or tribunal.

In the instant case, on two occasions the tribunal’s counsel made a recommendation before the tribunal’s chairperson said anything. The second time it occurred, Appellant’s attorney objected. The tribunal then conferred and the chairperson announced, “The majority of the Tribunal agrees with the ruling of our counsel.”

The statute does not address how the tribunal must make its evidentiary decisions, except to provide that the parties have the right to appeal to the full board or hearing tribunal. In the instant case, the full tribunal considered Appellant’s objection. It appears that the decision-making authority remained with the tribunal, notwithstanding the attorney’s advance comments. The State Board of Education, therefore, concludes that Appellant was not denied due process because the attorney spoke out before the tribunal requested his advice.

Appellant also claims she was denied due process because evidence was allowed pertaining to the 1997-1998 school year, but she was not permitted to enter evidence of her performance before the 1997-1998 school year. The tribunal allowed the Local Superintendent to submit evidence of Appellant’s performance during the 1997-1998 school year to establish that her conduct during the 1998-1999 school year was not an aberration but was ongoing despite repeated warnings from her principal and assistant principal. Appellant wanted to submit evidence to show that a pattern of conduct did not exist. The charges against Appellant related to her actions during the 1998-1999 school year and Appellant objected to any evidence concerning any other year. The Local Superintendent argued that evidence from the 1997-1998 school year was only to show why actions were taken by the principal during the 1998-1999 school year. The tribunal limited the evidence to the 1997-1998 and 1998-1999 school years. The record shows that

although Appellant had problems during the 1997-1998 school year, she received a satisfactory evaluation. The record does not show that Appellant was harmed by any of the 1997-1998 school year evidence, even if it should have been excluded. The State Board of Education, therefore, concludes that Appellant was not denied due process by being unable to introduce evidence that she received satisfactory evaluations before the 1998-1999 school year and the reasons why she responded to her principal and assistant principal in writing.

Based upon the foregoing, it is the opinion of the State Board of Education that Appellant was not denied due process because the tribunal failed to deliver its recommendation to the Local Superintendent within the time agreed upon, nor because of the manner in which the tribunal's legal advisor acted, nor because the tribunal ruled that Appellant could not admit evidence of her conduct before the 1997-1998 school year. The Local Board's decision, therefore, is hereby SUSTAINED.

This 10th day of February 2000.

Bruce Jackson
Vice Chairman for Appeals