

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

**PRAKASH RAI,** :  
 :  
 **Appellant,** :  
 :  
 **vs.** : **CASE NO. 2001-10**  
 :  
 **HARRIS COUNTY** :  
 **BOARD OF EDUCATION,** :  
 :  
 **Appellee.** : **DECISION**

This is an appeal by Prakash Rai (Appellant) from a decision by the Harris County Board of Education (Local Board) to terminate his teaching contract based upon willful neglect of duty and other good and sufficient cause under the provisions of O.C.G.A. § 20-2-940. Appellant claims that there was no evidence to support the charges, he was previously disciplined and cannot be disciplined again for the same conduct, and the Local Board’s decision was arbitrary and capricious. The Local Board’s decision is sustained.

The Local Board employed Appellant as the director of, and teacher in, its alternative school. In March 2000, the Local Superintendent reprimanded Appellant because of his failure to maintain control of the students in his classroom. After issuing the reprimand, the Local Superintendent continued investigating the operation of the alternative school because the police were conducting an investigation of the events that caused the Local Superintendent to reprimand Appellant. The Local Superintendent’s investigation uncovered several other incidents that caused the Local Superintendent to decide to seek termination of Appellant’s teaching contract. On June 9, 2000, the Local Superintendent gave Appellant a notice of charges. The charges, together with amended charges made on July 7, 2000, included two counts of dereliction of duty,<sup>1</sup> one count of willful neglect of duty, and seven counts of other good and sufficient cause. The Local Board held a hearing on the charges on August 5, 2000.

During the hearing, evidence was presented that Appellant asked a substitute teacher to provide the police with false information concerning the sexual conduct of two students. Additional information showed that Appellant failed to properly supervise his students and permitted male and female students to leave his classroom without any supervision. The students then went to a restroom and engaged in sexual conduct. Appellant claimed that he did not urge the substitute teacher to provide false information and that he was unable to supervise the students because he was understaffed.

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<sup>1</sup> Dereliction of duty does not exist as a basis for termination under O.C.G.A. § 20-2-940.

"It is the duty of the hearing tribunal to determine the veracity of the witnesses and the State Board of Education will not go behind such determination if there is any evidence to support the decision." *David L. v. DeKalb Cnty. Bd. of Educ.*, Case No. 1996-1 (Ga. SBE, Apr. 11, 1996). "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. 1976-11 (Ga. SBE, Sep. 8, 1976)." *Roderick J. v. Hart Cnty. Bd. of Educ.*, Case No. 1991-14 (Ga. SBE, Aug. 8, 1991). Although Appellant disputed the evidence, there was evidence before the Local Board that Appellant willfully neglected his duties, or there was other good and sufficient cause to terminate his teaching contract, both because he urged the substitute teacher to give false information to the police and because he failed to supervise his students.

Appellant claims that the Local Superintendent unnecessarily made several charges against him in an unreasonable effort to terminate his contract. Because there was some evidence to support some of the charges, however, it is unnecessary to discuss all the charges made by the Local Superintendent.

Appellant claims that the Local Board could not terminate his contract because the letter of reprimand he received from the Local Superintendent barred any further disciplinary action. Although some of Appellant's actions related to the reason he received the letter of reprimand, the charges made by the Local Superintendent to support the termination of Appellant's contract related to information discovered after he issued the letter of reprimand. The charges to support the termination were not included in the letter of reprimand and Appellant's claim that the Local Board was barred from basing its decision on the newly found evidence is without support.

Based upon the foregoing, it is the opinion of the State Board of Education that there was some evidence to support the Local Board's decision to terminate Appellant's teaching contract for willful neglect of duty and for other good and sufficient cause under the provisions of O.C.G.A. § 20-2-940. Accordingly, the Local Board's decision is SUSTAINED.

This \_\_\_\_\_ day of December 2000.

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Bruce Jackson  
Vice Chairman for Appeals