

STATE BOARD OF EDUCATION

STATE OF GEORGIA

TINA TURNER,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2001-16
	:	
BARTOW COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by Tina Turner (Appellant) from a decision by the Bartow County Board of Education (Local Board) to demote her from the position of principal to classroom teacher after finding that she improperly used school funds. Appellant claims that the Local Board’s decision was arbitrary and capricious, the Local Board is estopped from demoting her, and evidence was improperly admitted during the hearing. The Local Board’s decision is sustained.

Appellant served as a high school principal for the Local Board. In January 2000, Appellant asked the school bookkeeper to cash a check for \$600.00, but asked the bookkeeper to hold the check because she had insufficient funds to cover the check. Despite repeated requests from the bookkeeper to honor the check, she continued to ask the bookkeeper to hold the check until June 2, 2000, the day the Local Superintendent called her to his office to question her about the check.

In addition to the check, in January 2000, Appellant allowed her son to use the mobile telephone assigned to her by the school. Appellant’s son incurred in excess of \$800.00 in unauthorized telephone charges. The bookkeeper informed Appellant about the charges and asked for reimbursement. Appellant, however, did not reimburse the charges until June 2, 2000 after her meeting with the Local Superintendent.

The Local Superintendent informed Appellant that he would recommend her demotion based upon other good and sufficient cause under O.C.G.A. § 20-2-940 because of the improper use of public funds. Appellant asked for a hearing, which was held before the Local Board on August 2, 2000. The Local Board concluded the hearing by voting to demote Appellant to classroom teacher from her position as principal. Appellant then filed an appeal with the State Board of Education.

Appellant claims that the Local Board’s decision was arbitrary and capricious because it did not have any policies that prohibited Appellant’s conduct and other employees were permitted to cash checks with the bookkeeper that the bookkeeper held. There was testimony that

the bookkeeper occasionally cashed checks for teachers for small amounts, i.e., \$20.00, that the teachers asked her to hold over the weekend or until payday. The bookkeeper testified that she had never cashed a check for a principal or assistant principal but felt she had to because the principal was her immediate supervisor. Although the Local Board did not have a policy that directly addressed whether the bookkeeper should cash checks and then hold the checks, the Local Board could find that Appellant effectively appropriated public funds for her own use from January until June and that such conduct is impermissible. The State Board of Education concludes that the Local Board's decision was not arbitrary or capricious.

Appellant claims that the Local Board is estopped from demoting her because employees were routinely allowed to cash checks that were held by the bookkeeper. Estoppel requires some form of misrepresentation or concealment for the purpose of misleading the party who is relying upon estoppel. *See, Calhoun v. Williamson*, 76 Ga. App. 91, 45 S.E.2d 87 (1947). Although there was evidence that the bookkeeper cashed checks and held them for short periods of time, there was no evidence that the school system made any representations to Appellant that such conduct was condoned or that Appellant was misled to believe that she could avoid repaying over an extended period of time. According to the bookkeeper's testimony, Appellant's conduct was outside the norm. Additionally, there was no evidence that anyone had allowed a family member to incur telephone charges that were paid for by the school system. The State Board of Education concludes that the Local Board was not estopped to demote Appellant for her conduct.

Appellant also claims that she was denied due process because the proceedings were impermissibly expanded by allowing testimony concerning violations of the Code of Ethics without advance notice. The Local Superintendent testified, over objection, that the misuse of public funds violated the teacher Code of Ethics. Appellant was not charged with violating the Code of Ethics, but she was charged with other good and sufficient cause because of her misuse of public funds. The State Board of Education concludes that the introduction of testimony concerning the Code of Ethics was harmless error if it was in error because the Local Board based its decision on other good and sufficient cause rather than on a violation of the Code of Ethics and there was sufficient other evidence to support the decision.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board did not abuse its discretion and was not estopped to demote Appellant, nor did it deny Appellant due process. Accordingly, the Local Board's decision is SUSTAINED.

This _____ day of February 2001.

Bruce Jackson
Vice Chairman for Appeals