

STATE BOARD OF EDUCATION

STATE OF GEORGIA

ALPHONZA GRIFFIN,

Appellant,	:	
	:	
Vs.	:	CASE NO. 2001-18
	:	
RICHMOND COUNTY	:	
BOARD OF EDUCATION,	:	
	:	DECISION
Appellee.	:	
	:	

This is an appeal by Alphonza Griffin (Appellant) from a decision by the Richmond County Board of Education (Local Board) to terminate his teaching contract after finding him guilty of forcing a student to perform oral sex on him. Appellant claims that the evidence does not support the charge. The Local Board's decision is sustained.

The Local Board employed Appellant as a math teacher and boys' track coach. The Local Board had employed him for twelve years. In March 1999, the Local Superintendent sought to terminate Appellant's teaching contract on charges of willful neglect of duty, insubordination, immorality, and other good and sufficient cause because of allegations that he had forced a female student to perform oral sex on him. Appellant was relieved of his teaching duties, but a hearing on the charges was postponed until after Appellant was found not guilty in a criminal trial of charges arising from the same incident.

The Local Board conducted a hearing on June 14-15, 2000. The female student testified that the incident occurred sometime between February 23, 1999 and March 11, 1999, and she thought it occurred on a Thursday or a Friday. She claimed that Appellant took her home from school because the girls' track practice was cancelled as a result of the girls' track coach being absent from school and the cancellation of boys' track practice because of inclement weather. The girl testified that the incident happened enroute from school. They left the school in Appellant's car at approximately 3:30 p.m. and he dropped her off at home at approximately 5:30 p.m. At the end of the hearing, the Local Board voted to sustain the Local Superintendent's decision to terminate Appellant's contract. Appellant then appealed to the State Board of Education.

On appeal, Appellant claims that the student's testimony was not credible and that the evidence did not support the charges. In addition, he claims that the charge letter denied him due process because it was not specific enough concerning the date of the incident, which prevented him from presenting a defense. The Local Board argues that there was some evidence to support the charges, that the credibility of the witnesses has

to be decided by the trier of fact, and that Appellant received adequate notice of the charges.

"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).

In the instant case, the only evidence that the incident occurred was the testimony of the female student and the testimony of her grandmother that she came home late and did not act in a normal manner when she arrived home. There were, however, several critical facts that could lead to the conclusion that Appellant did not take the student home or act unprofessionally with her.

The student claimed that the incident occurred on a day when the girls' track coach was absent from school. The evidence presented showed that the girls' track coach was absent on March 5, 9, and 11, 1999. Both the student and her grandmother testified that the incident occurred on a Thursday or a Friday. Only March 5 and 11, 1999 fell on a Thursday or a Friday. Two student witnesses placed Appellant at track practice on March 5 and his wife testified that he was later at his son's basketball game. On March 11, 1999, Appellant was at a track meet until 8:00 p.m. Thus, on the only Thursday and Friday that the girls' track coach was absent, Appellant was at a track meet or a track practice.

The Student also testified that she told her friend about the incident when the schedules were changed because of examinations. Schedule changes because of examinations, however, only occurred during the first week of January 1999, well before track practice began, and during May 1999, after the charges were made against Appellant.

Despite these inconsistencies, however, the "[Local Board] heard and saw the witnesses, weighed that testimony, and chose to believe [the student]. On appeal our review is restricted to the legal sufficiency of the evidence, not its weight. Although the evidence was in conflict on the issue, it was for the [Local Board] to resolve such conflicts in the testimony. The [Local Board] performed its duty. [The State Board of Education] will not now substitute its judgment for that of the [Local Board]." *Carlos v. Murphy Warehouse Co.*, 166 Ga. App. 406, 409, 304 S.E.2d 439 (1983)(cits. omitted). The testimony of the student regarding the details of the incident was sufficient evidence to support the Local Board's decision.

Appellant also claims that the charge letter was insufficient and thus denied him due process because it did not state the date that the incident occurred. Appellant, however, did not raise this issue at the hearing before the Local Board. "If an issue is not raised at the initial hearing, it cannot be raised for the first time when an appeal is made."

Hutcheson v. DeKalb Cnty. Bd. of Educ., Case No. 1980-5 (Ga. SBE, May 8, 1980). The State Board of Education, as an appellate body, is not authorized to consider matters that have not been raised before the Local Board. *Sharpley v. Hall Cnty. Bd. of Educ.*, 251 Ga. 54, 303 S.E.2d 9 (1983).

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. Accordingly, the Local Board's decision is
SUSTAINED.

This _____ day of January 2001.

Bruce Jackson
Vice Chairman for Appeals