

STATE BOARD OF EDUCATION

STATE OF GEORGIA

NORMA BETH HARRIS,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2004-18
	:	
HARRIS COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by Norma Beth Harris (Appellant) from a decision by the Harris County Board of Education (Local Board) not to renew her teaching contract for the 2003-2004 school year. The Local Superintendent recommended against renewal of Appellant's contract based upon charges of insubordination, incompetence, and other good and sufficient causes under the provisions of O.C.G.A. § 20-2-940. The Local Board conducted a hearing regarding the charges and, at the end of the hearing, voted not to renew Appellant's contract. Appellant has appealed to the State Board of Education on the grounds the evidence did not support the charges. The Local Board's decision is sustained.

The Local Board employed Appellant as a high school graphic arts teacher more than five years ago. She worked without incident and with satisfactory ratings until the 2001-2002 school year. On February 5, 2002, Appellant suffered a heart attack and was absent from work for approximately one month.

Three days after Appellant returned from her recuperation, the Local Board held a meeting of the teachers without any administrators present and queried the teachers about the administration of the high school. Appellant and six other teachers spoke up about the inadequate performance of the high school principal.¹ The following day, Appellant's principal called her into his office and wanted to know what she said at the meeting with the Local Board. Appellant related one of the innocuous questions she had asked at the meeting. The principal became angry and told Appellant that he was not pleased with the instruction that had been going on in her classroom, although none of the administration had been in her classroom during the year. Appellant became upset and left the meeting and went to her doctor. Her doctor advised her to stay at home for additional rest and not to return to school. Appellant took additional medical leave and was absent for the rest of the 2001-2002 school year.

¹ At the time of the hearing, five of the other six teachers were no longer employed at the high school.

Although she was absent on medical leave, Appellant's principal initially required Appellant to submit weekly lesson plans and to grade tests until her doctor sent a letter of protest that said she could not properly recuperate if she had to continue performing some of her teaching duties.

Notwithstanding the lack of any observation of Appellant during the 2001-2002 school year, the principal gave her an unsatisfactory rating for the year.

At the beginning of the 2002-2003 school year, on August 22, 2002, Appellant referred a female student to an assistant principal because of a dress code violation. Another assistant principal addressed the issue and told the student to return to the class. When the student returned to class with a different principal's signature on the discipline slip, Appellant told the student to go and obtain the signature of the assistant principal to whom she had originally been sent because the student had a history of not reporting where she was directed to report. The student, instead, returned to the assistant principal who signed the discipline slip and said that Appellant would not let her back in class. The assistant principal escorted the student back to the class and told Appellant to admit the student. Appellant became angry because the student had not been disciplined. The assistant principal felt that Appellant was insubordinate because of her attitude. Later, Appellant went to the assistant principal to whom she had originally sent the student and asked whether the student had ever reported to him. The assistant principal who handled the incident wrote a memorandum to Appellant the next day and told Appellant that her actions were considered to be insubordinate and indicated an unwillingness to work cooperatively with the school administrators.

On November 6, 2002, Appellant gave her principal two memoranda with a note that asked him to sign that he had received the memoranda. Appellant had previously submitted memoranda that asked for a signature without incident. One memorandum asked questions about the lack of supplies and the other memorandum asked why Appellant was required to submit daily lesson plans when all other teachers only had to submit weekly lesson plans. The principal refused to acknowledge that he had received the memoranda. Appellant became upset and her principal asked her to leave his office. The next day, he issued a memorandum in which he told Appellant that her behavior was unprofessional. In addition, the principal stated that he was concerned about Appellant's quality of instruction and that she would have to continue submitting her lesson plans directly to him.

Twelve days later, on November 18, 2002, Appellant's principal completed an unannounced instructional evaluation of her teaching, which was the first evaluation she had received in more than a year. Appellant received three "needs improvement" ratings because the principal did not feel her students were being instructed. Additionally, Appellant did not have a lesson plan available for the class.

On December 11, 2002, Appellant's department head evaluated her and gave her one "needs improvement." Appellant's principal then placed her on a professional

development plan, which required her to develop a curriculum guide and submit lesson plans with curriculum guides. In addition, the plan required Appellant to visit other graphic arts programs.

On February 5, 2003, Appellant's principal became aware that Appellant's middle-school daughter was in her classroom. The principal went to Appellant's classroom and asked her if her daughter was in the class. Appellant admitted that her daughter was in the classroom, but said that it was a common practice for teachers to have their children in class. Appellant then became belligerent with the principal and he ordered her to come to his office after the class period was over, which was at the end of the school day. Appellant went to the principal's office accompanied by her two daughters. When the principal told her that her daughters could not attend the meeting, Appellant became angry and said she was not going to be in a meeting if her daughters could not attend. The principal said that she was being insubordinate if she did not attend the meeting. Appellant, nevertheless, left the office with her daughters.

On February 17, 2003, Appellant's principal conducted another evaluation and gave Appellant nine "needs improvement" ratings. An assistant principal gave Appellant and extended evaluation nine days later, on February 26, 2003, and gave Appellant five "needs improvement" ratings. On April 2, 2003, Appellant's principal observed her again and gave her two "needs improvement" ratings. The following day, April 3, 2003, the Local Superintendent wrote to Appellant and told her that her contract would not be renewed for the 2003-2004 school year. Appellant then asked for a hearing.

The Local Superintendent charged Appellant with three counts of insubordination as a result of the August 22, 2002, dress code violation incident, the November 6, 2002, memoranda incident, and the February 5, 2003 incident with her daughters. In addition, the Local Superintendent charged Appellant with incompetence because of the large number of "needs improvements" she received on her evaluations, willful neglect of duty because she failed to prepare lesson plans, and other good and sufficient causes. A hearing was held before the Local Board on July 19, 2003. At the conclusion of the hearing and without making any findings of fact, the Local Board voted not to renew Appellant's contract. Appellant then filed an appeal to the State Board of Education.

On appeal, Appellant claims that the decision not to renew her contract was made in retaliation against her because she spoke out against the principal at the meeting in March 2002 with the Local Board. In addition, Appellant claims that the principal was not truthful during the hearing and that she was not insubordinate.

"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). "The tribunal sits as the trier of fact and, if there is

conflicting evidence, must decide which version to accept. When that judgment has been made, the State Board of Education will not disturb the finding unless there is a complete absence of evidence." *F. W. v. DeKalb Cnty. Bd. of Educ.*, Case No. 1998-25 (Ga. SBE, Aug. 13, 1998).

Except for the circumstances, there was no evidence that the non-renewal of Appellant's contract was the result of retaliation because she spoke out against the principal at the meeting with the Local Board. Appellant made this argument to the Local Board during the hearing, but the Local Board, as the trier of fact, chose to discount or disregard her argument. The State Board of Education, therefore, cannot go behind the Local Board's findings and make a different finding that retaliation existed.

Three different administrators evaluated Appellant during the year and found her teaching deficient. There was, therefore, evidence before the Local Board that Appellant was incompetent.

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

This _____ day of March 2004.

William Bradley Bryant
Vice Chairman for Appeals