

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>JUDY MARTIN,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>vs.</b>	:	<b>CASE NO. 2005-44</b>
	:	
<b>LOWNDES COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	<b>DECISION</b>

This is an appeal by Judy Martin (Appellant) from a decision by the Lowndes County Board of Education (Local Board) to uphold the decision of the Local Superintendent to put a letter of reprimand in her personnel file concerning the manner in which she conducted herself when a parent objected to two novels that were on the advanced placement reading list.<sup>1</sup> In the letter of reprimand, the Local Superintendent claimed that Appellant acted inappropriately and unprofessionally. The Local Superintendent ordered Appellant to stop any further disruptive behavior and to abide by the administration's and Local Board's directives. Appellant claims that there was no evidence that she acted unprofessionally and that she followed the appropriate procedures in handling the parent's complaint. The Local Board's decision is reversed.

Appellant is a high school English teacher who teaches an advanced placement class. On August 24, 2004, a parent approached Appellant during an Open House function and demanded to know who was responsible for assigning a book, which she characterized as smut, for her daughter to read as a summer reading assignment. Appellant took the parent to the advanced placement coordinator, who was responsible for assigning the book and who had taught the book for several years. The three of them discussed the assignment of the book and the fact that the parent's daughter, who would be a senior, had already read the book. The parent was told that her daughter could read alternative books, but the parent insisted that the book was pornographic and filthy and she wanted it removed from the curriculum. She then said that she was going to go to the Local Board about the matter. Appellant and the advanced placement coordinator then advised the parent that the proper course of action would be to discuss the matter with the principal before going to the Local Board.

Two days later, the parent talked with the principal, who was unable to assuage the parent's concerns. The parent then complained to the Local Superintendent, who was also unable to placate the parent. The parent then raised community interest and had several of her friends attend a Local Board meeting to complain about the book.

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<sup>1</sup> The offensive books were "The Bean Trees," by Barbara Kingsolver, and "The Bluest Eye," by Toni Morrison. Both books are on the State-approved list of books.

The Local Superintendent issued a letter of reprimand to Appellant because of her “inappropriate and unprofessional” conduct in handling the parent’s complaint. The Local Superintendent alleged that Appellant (1) “became confrontational during the initial meeting with the parent,” (2) “showed little consideration for the opinions of the parent,” (3) “failed to make a reasonable attempt to diffuse the situation,” (4) “made inappropriate intimidating comments regarding future class assignments,” (5) “divulged information to the public gained from students in the course of your employment...,” and (6) “exacerbated the situation by suggesting that if the required course material was offensive, the student should investigate an alternative academic selection.”

Appellant appealed to the Local Board and the Local Board upheld the Local Superintendent’s action. Appellant then filed a timely appeal to the State Board of Education.

The Local Board argues that Appellant (1) failed to follow its policy when she took the parent to the advanced placement coordinator before taking the parent to the principal, (2) told the parent that if she was offended by the book, then she certainly would be offended by the book assigned for the second semester, (3) told the parent that the student should not pursue an advanced placement course of study if she was not open to all types of literature, and (4) disclosed information about students to the local newspaper. Appellant claims that the evidence presented to the Local Board did not support the Local Superintendent’s allegations and that she followed Local Board policy in handling the situation.

"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 Local Superintendent claimed that Appellant became confrontational with the parent during their initial meeting. There was, however, no evidence that Appellant did not act in a professional manner in her meeting with the parent or that there was a confrontation between the two. The parent testified that Appellant did not appear to empathize with her or understand her position, but the parent did not testify that the meeting was confrontational. The lack of empathy or understanding, even if true, does not rise to the level of being unprofessional conduct.

The Local Superintendent claimed that Appellant showed little consideration for the opinions of the parent. There was no evidence that Appellant did not show any consideration for the parent’s opinion. The parent came into a room that was full of other parents and demanded to know who was responsible for assigning smut for her daughter to read. Appellant, who was not responsible for the book being included in the reading curriculum, offered an apology and said that she had just read the book and had not found it offensive. The parent insisted on knowing who was responsible and Appellant took her to the person who was responsible, the advanced placement coordinator. The parent was condemning the assignment of a book; it was her opinion that the book was smut and pornographic. Appellant attempted to defend the Local

Superintendent's administration by defending the book to the extent that she said she did not find the book offensive. It would be arbitrary and capricious for a local board to inflict sanctions on a teacher for supporting the local superintendent's administration.

The Local Superintendent claims that Appellant failed to make a reasonable attempt to diffuse the situation. Again, there was no evidence that Appellant failed to act professionally or failed to make a reasonable attempt to diffuse the situation. The parent was demanding to see who was responsible for assigning the book and Appellant took her to see the teacher who was responsible for assigning the book. Appellant also told the parent that accommodations could be made for the student in the future with alternative reading assignments. Appellant attempted to do as the parent requested, i.e., introduce her to the teacher who had sent out the reading list, attempted to show the parent a different viewpoint, and attempted to show the parent that her daughter would not be subjected to future books without the parent's approval. These were reasonable attempts to diffuse the situation.

The Local Superintendent claimed that Appellant made "inappropriate intimidating comments regarding future class assignments." In discussing the book, Appellant had remarked to the parent that if she found the book offensive, she would also find the book offered during the second semester offensive, but that the student could be offered an alternative book. We conclude that Appellant's attempt to reach an accommodation with the parent by observing that the parent would probably find future assignments offensive, and offering alternative reading assignments does not constitute inappropriate intimidating comments and, therefore, does not constitute unprofessional conduct.

The Local Superintendent also charged that Appellant divulged information to the public about some of her students. There was no evidence presented to support this charge, but there were references made to a letter that Appellant wrote to the newspaper to defend her position. The letter was not introduced into evidence, nor was it read into evidence, so the letter's contents are speculative. Although Appellant testified that she would not write a letter to the newspaper if a situation of this nature ever arose again, the writing of a letter to the newspaper is not *per se* unprofessional conduct, and does not, therefore, form any basis for disciplinary action without some evidence that Appellant violated some standard of conduct expected of teachers.

The Local Superintendent charged that Appellant "exacerbated the situation by suggesting that if the required course material was offensive, the student should investigate an alternative academic selection." Throughout the hearing, the Local Superintendent criticized Appellant for failing to reach a compromise with the parent, but then the Local Superintendent claims that Appellant's attempt to reach a compromise with the parent by offering alternative reading selections is evidence of unprofessional conduct. This position is inconsistent. As stated above, Appellant's attempt to reach an accommodation with the parent does not constitute unprofessional conduct.

The Local Superintendent also claims that Appellant failed to follow the Local Board policy by taking the parent to another teacher instead of taking her directly to the principal. The Local Board policy provides that problems should be handled at the lowest level possible, migrating from the teacher to the principal and then to the Local Superintendent. There was no

evidence that the policy prohibits a teacher from taking a parent to another teacher in an effort to diffuse the situation at the lowest possible level, especially when the parent is asking to talk to the responsible person and the other teacher is the responsible person. When the parent insisted that she was going to go to the Local Board, Appellant and the other teacher talked her into meeting with the principal, which was the method outlined in the policy. We conclude that there was no evidence to show that Appellant failed to follow Local Board policy.

The parent wanted the book removed from the curriculum, but Appellant did not have any authority to remove the book from the curriculum. Appellant offered alternatives to the parent, but the alternatives did not satisfy the parent's desire to remove the book from the curriculum. Although Appellant was unable to satisfy the parent, neither were the principal or the Local Superintendent able to satisfy the parent. We conclude that Appellant's inability to satisfy the parent's desires did not constitute unprofessional conduct or a violation of the Local Board's policy.

Based upon the foregoing, it is the opinion of the State Board of Education that there was no evidence to support the Local Board's decision to uphold the Local Superintendent's issuance of a letter of reprimand that charged Appellant with unprofessional conduct. Accordingly, the Local Board's decision is REVERSED.

This \_\_\_\_\_ day of June 2005.

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William Bradley Bryant  
Vice Chairman for Appeals