

STATE BOARD OF EDUCATION

STATE OF GEORGIA

SAUNDRA BARNES,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2006-24
	:	
MERIWETHER COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by Sandra Barnes (Appellant) from a decision by the Meriwether County Board of Education (Local Board) not to renew her contract as a counselor because of insubordination, incompetence, and other good and sufficient cause under the provisions of O.C.G.A. § 29-2-940. Appellant claims that the evidence did not support the Local Board’s decision and that there were procedural errors in the conduct of the hearing before the Local Board. The Local Board’s decision is sustained.

The Local Board employed Appellant as an elementary school counselor. At the end of the 2004-2005 school year, the Local Superintendent wrote to Appellant that she was not recommending the renewal of Appellant’s contract because of incompetence, insubordination, and other good and sufficient cause. Appellant asked for and received a hearing on the charges before the Local Board.

The Local Board heard evidence that Appellant had scheduled guidance lessons during academic instructional periods, i.e., arithmetic, reading, and language arts classes, rather than during non-academic periods as she had been directed by the principal. There was also evidence that Appellant was the chairperson of the student support teams and that student files were lost or misplaced while in Appellant’s office. The loss of the files for two students resulted in their having to repeat a grade. The Local Board found Appellant guilty of the charges and voted against renewing her contract. Appellant then filed a timely appeal to the State Board of Education.

On appeal, Appellant claims that there was no evidence to support the charges. Additionally, Appellant claims that the Local Board erred by violating the rule of sequestration and by not allowing her to testify about an email she had received.

"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, there was evidence that Appellant scheduled classes during times when she was directed not to schedule them. Appellant claims that she did not do the scheduling but, instead, the teachers scheduled the classes when she sent them a blank scheduling form to complete. The Local Board was not required to accept Appellant's attempt to shift responsibility after she had received a clear directive from her principal. Appellant also attempted to shift responsibility for the loss of files to others because she was not the only one who had access to the files. The Local Board could conclude that Appellant was incompetent because files were lost, or misplaced, while they were under Appellant's control.

Appellant's main argument is that she had an explanation for why files were missing and why classes were scheduled during academic periods. "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). The State Board of Education concludes that there was evidence that Appellant was incompetent and insubordinate.

Appellant also claims that she was denied due process because the Local Superintendent and the principal remained in the hearing room. The principal testified first and then remained in the hearing room to assist in the presentation of the case. The Local Superintendent also remained in the hearing room and presented testimony after the other witnesses. The rule of sequestration does not apply to a party. *See, D.C.A. v. State*, 135 Ga. App. 234, 235, 217 S.E.2d 470, 471 (1975). The Local Superintendent, therefore, was not required to be sequestered since she was the prosecuting party. If a witness is needed to assist in the presentation of a case and presents testimony first, the witness is not required to be sequestered. *See, Kelly v. The State*, 182 Ga. App. 7, 354 S.E.2d 647 (1987). The principal was needed to assist in the presentation of the case and was the first witness to testify. There was, therefore, no harm in the principal remaining in the room.

Appellant also claims that it was an error for the hearing officer to deny her the opportunity to testify about an e-mail she received in an effort to explain her conduct. As the hearing officer ruled, the e-mail was hearsay and could not have influenced Appellant's conduct since it was received by Appellant after she received notice that her contract was not going to be renewed. Appellant has not shown any other reason why the e-mail should have been considered an exception to the hearsay rule. The State Board of Education, therefore, concludes that it was not an error to exclude the e-mail.

Appellant also raises several issues concerning the principal's and Local Superintendent's directives to use, and be evaluated under, a program designated as Learner Focused Strategies (LFS) in her presentation of classroom guidance sessions. While Appellant's disagreement with the use of LFS was the genesis of her problems with the principal, none of the issues raised negate the findings of incompetence and

insubordination and the State Board of Education concludes that it is unnecessary to discuss such issues.

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 and that Appellant was not denied due process. Accordingly, the Local Board's decision is SUSTAINED.

This _____ day of December 2005.

William Bradley Bryant
Vice Chairman for Appeals