

STATE BOARD OF EDUCATION

STATE OF GEORGIA

GREGORY LEWIS,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2006-30
	:	
ATLANTA CITY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION
	:	

This is an appeal by Gregory Lewis (Appellant) from a decision by the Atlanta City Board of Education (Local Board) to terminate his teaching contract for other good and sufficient causes under the provisions of O.C.G.A. § 20-2-940 after a tribunal found that he had made disparaging comments to his students. The tribunal recommended a 60-day suspension without pay. Appellant claims that it was an abuse of discretion for the Local Board not to adopt the recommendation of the tribunal. The Local Board’s decision is sustained.

O.C.G.A. § 20-2-940(e) provides that a local board of education “may designate a tribunal to consist of not less than three nor more than five impartial persons possessing academic expertise to conduct the hearing and submit its findings and recommendations to the local board for its decision thereon.” If the tribunal makes findings of fact that will support a dismissal, a local board of education is not bound to follow the recommendation made by the tribunal but can decide to dismiss an employee despite a recommendation for suspension. *See, Poland v. Cook Cnty. Bd. of Educ.*, Case No. 1977-4 (Ga. SBE, June 9, 1977). Thus, the question is whether the tribunal made any findings of fact that would support a dismissal.

"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 tribunal found that Appellant orally abused his students by referring to them as “dumb,” “stupid,” “ugly,” “fat,” “gay” and “fat boy.” The tribunal also found that Appellant made inappropriate references to the students’ eating habits. Although Appellant disputed the context in which these comments were made, provided testimony of another teacher about overhearing the students conspiring to have Appellant dismissed, and had an assistant principal testify that Appellant was an outstanding teacher, it was the province of the tribunal to

determine the credibility of the witnesses and that determination will not be disturbed if there is any evidence to support the tribunal's finding. "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).

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 to terminate Appellant's teaching contract. Accordingly, the Local Board's decision is SUSTAINED.

This _____ day of February, 2006.

William Bradley Bryant
Vice Chairman for Appeals

SUMMARY

This is an appeal by Gregory Lewis (Appellant) from a decision by the Atlanta City Board of Education (Local Board) to terminate his teaching contract for other good and sufficient causes under the provisions of O.C.G.A. § 20-2-940 after a tribunal found that he had made disparaging comments to his students. The tribunal recommended a 60-day suspension without pay. Appellant claims that it was an abuse of discretion for the Local Board not to adopt the recommendation of the tribunal. The Local Board's decision is sustained.