STATE BOARD OF EDUCATION

STATE OF GEORGIA

JOHN RAMAY, SR.,	:	
	:	
Appellant,	:	
	:	
vs.	:	**CASE NO. 2007-10**
	:	
JEFF DAVIS COUNTY	:	
BOARD OF EDUCATION,	:	
	:	**DECISION**
Appellee.	:	

This is an appeal by John Ramay, Sr. (Appellant) from a decision by the Jeff Davis County Board of Education (Local Board) to deny his grievance regarding the Local Superintendent's decision to reduce his number of additional workdays beyond the 190-day school year. Appellant claims that the Local Board was biased because two of the members are related to another teacher and the hearing officer was also biased. The Local Board's decision is sustained.

Appellant is one of three agricultural teachers employed by the Local Board and serves as the department chairperson. On April 11, 2006, the Local Superintendent notified Appellant that his contract was approved for the 2006-2007 school year with 25 extended-year days included. Appellant later learned that the other two teachers received contracts that were based on 40 extended-year days. Previously, the Local Board had granted Appellant a contract that was based on 35 extended-year days on parity with the other two teachers. Appellant filed a grievance pursuant to the Local Board's Policy GAE and claimed that (1) the procedures under O.C.G.A. § 20-2-212(b) were not followed because there was no public hearing before his supplement was reduced, (2) he was being denied equal protection under both federal and state constitutions, (3) he was being discriminated against because of his age. Additionally, he made a claim for conversion.[1] Appellant asked to have a contract based on 40 extended-year days.

Appellant's principal denied his grievance at his Level I hearing. The principal found that Appellant's local supplement was not being reduced, thus negating any need for a public hearing as required by O.C.G.A. § 20-2-212(b). The principal also found that Appellant's work days were reduced not because of Appellant's age, but because Appellant no longer had any responsibilities regarding a canning plant previously operated by the school system and

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[1] O.C.G.A. § 20-2-989.5 et seq., provides that local boards of education must adopt procedures designed to handle employee grievances at the lowest level possible with hearings being provided at the school level (Level I), the local superintendent's level (Level II), and before the local board (Level III). The Local Board's Policy GAE was adopted to conform to the requirements of state law.

his job position did not require more than 25 days during the summer months. Appellant then appealed to the Local Superintendent.

The Local Superintendent also denied Appellant's grievance following his Level II hearing. The Local Superintendent agreed with the principal that a local supplement was not involved and O.C.G.A. § 20-2-212(b) was inapplicable. The Local Superintendent also found that the only issues raised by Appellant during his hearing was animus against him by his principal and nepotism by the Local Board, but that Appellant had not provided any proof beyond mere speculation to support his claims. Appellant then appealed to the Local Board.

Before the Local Board, Appellant claimed that reducing his extended-year days violated the federal age discrimination laws, the equal protection clause of the United States Constitution, that his money had been converted, and that there was a violation of O.C.G.A. § 20-2-212(b) because his "local supplement" had been reduced without a hearing. Appellant challenged two of the Local Board members solely because they were uncles of another agriculture teacher. The two board members refused to recuse themselves. Appellant also challenged the hearing officer as biased because the hearing officer's law firm represents the Georgia School Board Association. The hearing officer also refused to recuse himself. The Local Board found that Appellant failed to prove any of his claims and upheld the Local Superintendent's decision denying Appellant's grievance. Appellant then filed an appeal to the State Board of Education.

On appeal to the State Board of Education, Appellant claims that 1) his pay was reduced in violation of O.C.G.A. § 20-2-212(b) because there was not a public hearing before his pay was reduced, 2) the Local Board erred when the two board members failed to recuse themselves, 3) the Local Board erred in permitting the hearing officer to serve, 4) the hearing officer exceeded his authority, 5) the Local Board discriminated against him because of his age, 6) the Local Board denied him equal protection of the law, 7) he was deprived of his property without due process of law, and 8) there was no evidence to support the Local Board's decision.

"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). Appellant has failed to establish any basis for reversal of the Local Board's decision.

The crux of this case rests with Appellant's claim that the Local Board improperly reduced his supplemental pay without complying with O.C.G.A. § 20-2-212(b), which requires a public hearing before a local board of education can reduce the local supplemental salary of any employee.[2] O.C.G.A. § 20-2-212(a) provides for the payment of a base 190-day salary from state funds. O.C.G.A. § 20-2-212(b) permits local boards to pay supplements to the minimum salaries provided in subsection (a). State Board of Education Regulation 160-5-

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[2] At the time of the hearing, O.C.G.A. § 20-2-212(b) required only one public hearing. The law was amended, effective July 1, 2006, to require two public hearings.

2-.04(b) requires local boards of education to pay employees who work more than 190 days at least 1/190th of the state minimum salary schedule "for the number of days worked during the months of July and August." As pointed out by the Local Board, nothing in O.C.G.A. § 20-2-212 or the regulation requires a local board to offer a teacher any particular number of workdays in excess of 190 days.

O.C.G.A. § 20-2-212(b) provides, in part,

> In any fiscal year in which [employees] receive an increase under the [state] minimum salary schedule, a local unit of administration shall not decrease any local salary supplement for such personnel below the local supplement amount received in the immediately preceding fiscal year by those [employees] … unless … [the local board] has conducted at least two public hearings regarding such decrease…."

The purpose of the law appears to be to prevent local boards from decreasing the local supplement when the state increases the amount of the state-provided minimum pay. In the instant case, there was no showing that the amount of state funding was increased so that a public hearing would be required. The record also shows that Appellant's local supplement has not been reduced.

Appellant has confused supplemental days with supplemental pay. The Local Board did not decrease the local supplemental pay it was paying to Appellant; it decreased the number of extra days he was being paid the state minimum salary, which a local board is free to do. The State Board of Education concludes that the Local Board did not violate the provisions of O.C.G.A. § 20-2-212.

Appellant also claims that he did not obtain due process because two board members were related to another agriculture teacher and they did not recuse themselves. Appellant did not offer any evidence beyond mere speculation of any bias on the part of the two board members. The State Board of Education, therefore, concludes that Appellant's claim of bias is without merit.

Appellant next claims that the Local Board erred in using its own attorney as a hearing officer. Appellant has not pointed to anything to show any harm that resulted from the Local Board's attorney serving as the hearing officer. Additionally, Appellant failed to cite any law or authority for the proposition that a local board cannot use its own attorney as a hearing officer. The State Board of Education has previously ruled that a local board attorney can serve as a hearing officer. *See, Sharpley v. Hall Cnty. Bd. of Educ.*, Case No. 1981-20 (Ga. SBE, Feb. 11, 1982); *Robinson v. Hart Cnty. Bd. of Educ.*, Case No. 1983-25 (Ga. SBE, Nov. 10, 1983). The State Board of Education concludes that Appellant's claim that he was denied due process because the Local Board's attorney served as the hearing officer is without merit.

Appellant next claims that the hearing officer exceeded his authority under the provisions of O.C.G.A. § 20-2-989.8(5), which provides that an attorney may serve "as the law officer who shall rule on issues of law and who shall not participate in the presentation of the case…." Appellant claims that the hearing officer participated in the presentation of the case by objecting to questions and controlling the hearing. A review of the record, however,

shows that the hearing officer only attempted to assist Appellant when Appellant's questioning strayed from the issues before the Local Board, was repetitious, or resulted in compound questions. The State Board of Education concludes that Appellant was not denied due process by the actions of the hearing officer.

Appellant claims the Local Board discriminated against him because of his age. There was, however, no evidence to support Appellant's claim; the claim is merely speculation by Appellant. The State Board of Education concludes there is no merit in Appellant's claim of age discrimination.

Appellant also claims the Local Board denied him equal protection of the law. This claim apparently arises from the fact that the other two teachers received contracts based on 40 extended-year days. Appellant, however, has not cited any authority to support his claim. The fact that different employees are treated differently does not automatically establish an equal protection claim. The State Board of Education concludes that Appellant's equal protection claim is without merit.

Appellant claims he was deprived of his property without due process of law. Appellant, however, has not established that he has any property interest in extra summer days of work. Additionally, the Local Board provided Appellant with all of the hearings required by law, and permitted him to be represented, to subpoena witnesses, and to cross-examine witnesses. The State Board of Education concludes that Appellant was not denied any due process of law.

Finally, Appellant claims there was no evidence to support the Local Board's decision. Appellant, however, mischaracterizes the burden in the hearings involved. As the complaining party, Appellant is the one who has the burden of proof and the Local Board is not required to present any evidence; it merely has to decide whether the complaining party has proved the complaint.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board did not violate the provisions of O.C.G.A. § 20-2-212, nor did it deny Appellant due process or equal protection. Accordingly, the Local Board's decision is SUSTAINED.

This _____ day of December 2006.

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William Bradley Bryant
Vice Chairman for Appeals