

**STATE BOARD OF EDUCATION  
STATE OF GEORGIA**

<b>TONYA CRAFT,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>v.</b>	:	<b>CASE NO. 2009-12</b>
	:	
<b>CHICKAMAUGA CITY BOARD OF EDUCATION,</b>	:	<b>DECISION</b>
	:	
	:	
<b>Appellee.</b>	:	

This is an appeal by Tonya Craft from a decision by the Chickamauga City Board of Education (“Local Board”) terminating her employment contract based upon willful neglect of duties and other good and sufficient cause. The Local Board terminated Appellant’s employment due to her inability to perform her job duties because of the bond conditions she agreed to after she was arrested for allegations of immoral and indecent conduct with minors. Appellant asserts four errors: (1) the Local Board’s decision is not supported by the evidence because the employment contract evidencing the essential job functions required of Appellant was not offered into evidence, (2) the Local Board’s decision is not supported by evidence, (3) the Local Board erred by denying Appellant a continuance and/or compelling the attendance of subpoenaed witnesses, and, (4) the Local Board erred by excluding relevant evidence regarding the underlying criminal charges for which Appellant was arrested. For the reasons set forth below, the decision of the Local Board is affirmed.

**I. PROCEDURAL BACKGROUND**

Appellant was employed as a kindergarten teacher at the Chickamauga City School System. Appellant was employed pursuant to an annual contract for the 2008-2009 school-year. On July 30, 2008, Appellant was notified that her employment contract was being terminated for willful neglect of duties and other good and sufficient cause. Prior to the hearing, Appellant was notified that the Local Board did not seek to terminate her based upon whether she committed the underlying criminal charges against her, but only based upon her inability to perform her job duties because of the bond conditions. A tribunal for the School Board was convened at which Appellant was provided the opportunity to present evidence and to subpoena witnesses. At the conclusion of the hearing, the tribunal unanimously voted to uphold the termination of Appellant’s employment contract. Appellant has appealed the decision of the Local School Board to the State Board of Education.

## **II. FACTUAL BACKGROUND**

In June of 2008, Appellant was arrested for charges alleging sexual misconduct with minor children. On June 11, 2008, Appellant agreed to a bond order requiring that she “shall not have contact, directly or indirectly, with any minor, except her natural children, in which case, supervised visitation shall be allowed. . . .” As a result of this bond order, the Local Board notified Appellant that she was being terminated because of her inability to perform her job duties since she could not have contact with minor children. On June 25, 2008, Appellant was issued a modified bond order which allowed her to attend family functions where other minor children are present, but on the condition that “all contact with such children shall be supervised by another adult. . . .” The modified bond order further provided that Appellant “shall have no contact, whether directly in person or indirectly through any means of communication, with any child under the age of eighteen.” The modified bond order further allows Appellant to have incidental conduct when attending normal public events. However, under such circumstances, the bond order requires Appellant to promptly remove herself from the company of such children.

## **III. ERRORS ASSERTED ON APPEAL**

### **A. Evidence of Appellant’s Job Duties.**

Appellant asserts that the Local Board erred by failing to offer into evidence her employment contract identifying her job duties.<sup>1</sup> The Local Board has the burden of proof in seeking to dismiss a teacher. O.C.G.A. § 20-2-940(e)(4). The State Board is required to affirm the decision of the Local Board if there is any evidence to support the decision of the Local Board, unless there is abuse of discretion or the decision is arbitrary and capricious as to be illegal. See Ransum v. Chattooga County Bd. of Educ., 144 Ga. App. 783 (1978); Antone v. Greene County Bd. of Educ., Case No. 1976-11 (Ga. SBE, Sep. 1976).

In the case sub judice, Appellant was provided a hearing pursuant to O.C.G.A. § 20-2-940 et seq. In order to be entitled to a hearing, Appellant would have to be employed pursuant to an employment contract. Thus, whether the employment contract was offered into evidence is irrelevant. Moreover, the Local Board provided testimony that the Appellant was a kindergarten teacher who would be required to be around children under the age of eighteen. The bond order

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<sup>1</sup> Appellant asserts that her due process rights were violated because the employment contract was not offered into evidence, she was not provided notice of the charges against her, and she was not provided the right to call witnesses regarding the underlying criminal charges. The Local Board provided evidence regarding Appellant’s job duties and the bond conditions which led to her proposed termination. The notice to Appellant and subsequent letter clearly provided Appellant notice of the reason for her proposed termination. Appellant was provided the opportunity to provide evidence to dispute her bond conditions. Thus, these assertions are without merit.

prohibits Appellant from having contact with minor children. The modified bond order also prohibits Appellant from having contact with children under the age of eighteen. Thus, the decision of the Local Board is supported by evidence in the record.

**B. Evidence Supporting the Local Board’s Decision.**

Appellant asserts that the evidence does not support the Local Board’s decision because the modified bond order allows Appellant to have contact with children.<sup>2</sup> This assertion is without merit. Appellant was terminated because she was unable to perform her job duties because of her bond conditions. As set forth above, both the bond order and modified bond order prohibit Appellant from having contact with children under the age of eighteen.<sup>3</sup> The Local Board concluded that this reason constituted other good and sufficient cause under O.C.G.A. § 20-2-940(a)(8). This Board has previously concluded that a teacher’s inability to teach because of his bond conditions constitutes good and sufficient cause. Leontovich v. Cobb County Bd. of Educ., Case No. 2006-40 (Ga. SBE, April 2006). Thus, the decision of the Local Board is supported by evidence in the record.

Appellant also asserts that she could have been placed on a leave of absence. However, Appellant did not report to work the first two weeks of the 2008-2009 school year. Presumably, she understood her actual bond conditions prevented her from performing her job duties. Moreover, whether Appellant could have been placed on a leave of absence is irrelevant. The record is devoid of any evidence that she sought a leave of absence. It is not the Local Board’s duty or obligation to place an employee on a leave of absence because of the bond conditions which prevent Appellant from performing her job duties.

**C. Exclusion of Evidence.**

Appellant asserts that the Local Board erred by excluding evidence related to the underlying criminal charges. In order to be relevant, “[e]vidence must relate to the questions being tried . . . and bear upon them either directly or indirectly.” O.C.G.A. § 24-2-1; see also Morgan v. City of Atlanta Bd. of Educ., Case No. 1996-35 (Ga. SBE, Sept. 1996) (holding evidence from another entity finding teacher did not violate underlying charges properly excluded). Appellant was not charged with the underlying criminal allegations by the Local

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<sup>2</sup> Appellant further asserts she had a new motion to modify her bond conditions pending with the court. However, this motion had not been granted at the time of the proposed termination, and is therefore irrelevant.

<sup>3</sup> Appellant asserts that she could have met her bond conditions by having a co-teacher or paraprofessional in attendance. However, the Local Board is not obligated to provide an adult in the classroom to comply with an employee’s bond conditions. Moreover, even assuming the Local Board could have done so, having a co-teacher or paraprofessional in attendance, would not have complied with either the initial or modified bond order.

Board. Thus, any such evidence was not related to the reasons for the proposed termination, nor did such evidence have any bearing on the issue before the Local Board. Thus, the Local Board did not err by excluding evidence related to the underlying criminal charges.

**D. Denial of a Continuance.**

Appellant asserts that the Local Board erred by denying her a continuance because the Local Board changed the charges against her and because witnesses did not appear who were subpoenaed. The denial of a continuance is within the sound discretion of the Local Board, and, absent a showing of clear abuse, it is not grounds for reversal. Talmadge v. Elson Properties, 279 Ga. 268 (2005); Yearwood v. Greene County Bd. of Educ., Case No. 2008-12 (Ga. SBE, Nov. 2007).

Appellant asserts that a continuance should have been granted because the charges were changed. However, the record shows that the Local Board notified Appellant that she was not being proposed for termination for the underlying charges. Thus, the reasons for her termination were reduced, not increased. Under such circumstances, the necessity of a continuance is illogical. In any event, Appellant has failed to meet the clear abuse standard.

Appellant further asserts that a continuance should have been granted because witnesses did not appear that were subpoenaed and the Local Board did not compel the attendance of these witnesses. Appellant did not make an offer of proof for these witnesses. However, the record shows that Appellant asserted to the hearing officer that the testimony of these witnesses related to the underlying criminal charges against Appellant. Since this testimony was properly excluded, and would have been excluded, it would have been pointless for the Local Board to grant a continuance or compel the attendance of these witnesses. Thus, the Local Board did not abuse its discretion by not granting a continuance based upon the failure of witnesses to appear.

**IV. CONCLUSION**

Based upon the reasons set forth above, it is the opinion of the State Board of Education that the evidence supports the decision of the Local Board, and it is therefore SUSTAINED.

This \_\_\_\_\_ day of January 2009.

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WILLIAM BRADLEY BRYANT  
VICE CHAIRMAN FOR APPEALS