

STATE BOARD OF EDUCATION

STATE OF GEORGIA

ARTHUR ANDERSON,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2009-53
	:	
GRADY COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by Arthur Anderson (Appellant) from a decision by the Grady County Board of Education not to renew his contract as a principal for the 2009-2010 school year on the grounds of incompetency and other good and sufficient cause under the provisions of O.C.G.A. § 20-2-940. Appellant claims that the Local Board’s decision was not supported by the evidence. In addition, he claims that the Local Board’s decision violates the Age Discrimination in Employment Act of 1967. The Local Board’s decision is sustained.

The Local Board conducted a hearing on the Local Superintendent’s recommendation not to renew Appellant’s contract because of incompetency and other good and sufficient cause. Testimony was received from the special education director, an assistant superintendent, and the Local Superintendent that Appellant regularly failed to communicate with the central office, failed to have teachers and custodians attend meetings and did not attend called principal meetings himself. Appellant’s school has been on the “Needs Improvement” list for seven years. The special education director and the assistant superintendent testified that Appellant arbitrarily changed a program designed to assist children enrolled in special education, which was the area that caused the “Needs Improvement” rating, and refused to implement the program until the Local Superintendent intervened.

At the conclusion of the hearing, the Local Board voted unanimously to accept the Local Superintendent’s recommendation not to renew Appellant’s contract. Appellant then appealed to the State Board of Education.

Appellant claims that the Local Board’s decision not to renew his contract violated the federal Age Discrimination in Employment Act, 29 U.S.C. §§ 621 *et seq.*, as amended (ADEA), because he is more than 40 years old. The Local Board counters that its decision did not violate the ADEA. As we have previously pointed out in *Heinlen v. Grady Cnty. Bd. of Educ.*, Case No. 2009-51 (Ga. SBE, July 9, 2009), the State Board of

Education lacks jurisdiction to address Appellant's claim of age discrimination under ADEA.

Appellant also claims that there was no evidence to support the Local Board's decision and it was based, instead, upon irrelevant testimony, animus, and a desire to implement a reduction in force.

"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 direct evidence that the school was rated as a "Needs Improvement" school, that Appellant attempted to thwart efforts to improve the performance of the students enrolled in the special education program, that Appellant was unable to schedule his personnel to attend required meetings, and that Appellant failed to timely communicate with the central office when necessary. The State Board of Education, therefore, concludes that there was evidence from which the Local Board could conclude that Appellant was incompetent.

The Local Superintendent also charged Appellant with other good and sufficient cause because of the declining enrollment in Appellant's school, which the Local Superintendent attributed to Appellant's lack of leadership. There was, however, no evidence to support the Local Superintendent's opinion that the declining enrollment at the school was because of a leadership problem and not some other factors, such as county growth patterns. The testimony of a parent, who had a child who attended the school many years ago and transferred the child to another school, did not address current conditions and did not provide any support for the charge that the lack of leadership caused the declining enrollment. The State Board of Education, therefore, concludes that the Local Board did not establish any other good and sufficient cause not to renew Appellant's contract.

Based upon the foregoing and a review of the record, it is the opinion of the State Board of Education that there was evidence to support the Local Board's decision not to renew Appellant's contract because of incompetency. Accordingly, the Local Board's decision is
SUSTAINED.

This _____ day of August 2009.

William Bradley Bryant
Vice Chairman for Appeals