

STATE BOARD OF EDUCATION

STATE OF GEORGIA

RICHARD G. ROBERSON,)	
)	
Appellant,)	
)	CASE NO. 1985-9
v.)	
)	
WEST GEORGIA COOPERATIVE)	
EDUCATION SERVICE AGENCY)	
(CESA),)	
)	REPORT OF
Appellee.)	HEARING OFFICER

PART I

SUMMARY

This is an appeal by Richard G. Roberson (hereinafter "Appellant") from a decision of the West Georgia Cooperative Education Service Agency (hereinafter "CESA Board") not to renew his teaching contract. Appellant was charged with insubordination, willful neglect of duties, and unprofessional behavior. The appeal is based upon Appellant's contention that the evidence does not support the charges. The Hearing Officer recommends that the decision of the CESA Board be sustained.

PART II

FACTUAL BACKGROUND

Appellant completed his fourth consecutive year as Child Serve Director in the spring of 1985. The Child Serve Director works with the Georgia Learning Resources System (GLRS) in providing support services for handicapped children, their teachers, their parents and other agencies that work with the handicapped population.

On April 12, 1985, Appellant was notified that he had not been elected for reemployment for the 1985-86 school year. On April 15, 1985, he requested the reasons for nonrenewal and a hearing. By letter of April 25, 1985, Appellant was charged with insubordination, willful neglect of duty, and unprofessional behavior. Insubordination was charged because he failed to follow reasonable instructions from superiors in completing State and agency reports and failed to follow requirements in applying for a GLRS position. He was charged with willful neglect of duty because he failed to serve the nine school system CESA area in an equitable manner and failed to keep proper records of his activities. He was charged with unprofessional behavior because he falsely attacked, in writing, the character and conduct of a State Department of Education employee, and repeatedly demonstrated unacceptable and uncooperative behavior to his superiors.

A hearing was held on May 8, 1985, at which testimony was presented concerning the charges against Appellant. The GLRS Director testified that he assumed the director position on November 5, 1984. Shortly thereafter, he held a staff meeting and informed the staff, including Appellant, of certain record-keeping requirements he was establishing. These requirements included a sign-in, sign-out sheet, a daily schedule, a daily activity sheet, a leave request form, and a request for out-of-the-area travel. The Director received a report from Appellant's supervisor that Appellant had not completed certain

State reports which the supervisor had told him to complete. The Director confirmed this by a conversation with the State Department of Education employee, the GLRS Coordinator, who was responsible for securing this information. He checked the work sheets and found that the information required was sparsely filled in. The Director had a conference with Appellant and asked for his resignation, which Appellant did not give. Subsequently, the Director discovered that Appellant had written to the supervisor of the GLRS Coordinator and complained about the Coordinator's involvement.

The GLRS Coordinator testified that she had had to request that reports be completed and that a written complaint had been made against her by Appellant, in which he alleged that she had promised to support him in his desire for promotion and then did not. The letter, which was introduced into evidence, also accused her of unethical conduct.

The secretary at the office where Appellant worked testified that Appellant did not keep the sign-in, sign-out sheets until Appellant's new supervisor came to work later in the 1984-85 school year, February 11, 1985.

Appellant's new supervisor was hired on February 11, 1985, and she testified that Appellant showed on his daily schedule and expense statements that he attended a meeting when he was not at the meeting and that he charged mileage which was incorrect. She also testified that Appellant did not submit

his budget material, which he was requested to provide by February 22, 1985 and by April 18, 1985.

At the end of the May 8, 1985 hearing, the CESA Board voted to uphold the non-renewal of Appellant's contract.

This appeal was filed June 5, 1985.

PART III

DISCUSSION

Appellant contends on appeal that the evidence does not support the charges and the non-renewal was based solely on innuendo, rumor and hearsay. Appellant also argues that none of the instances complained of are sufficient to justify not renewing his contract.

In this case, a question arises as to whether the State Board of Education has jurisdiction under O.C.G.A. §20-1-1160 to hear this appeal because the decision appealed from is not from a local board but from the CESA Board. The CESA is an agency designed to provide and administer services and programs that cross local system lines within the service area. O.C.G.A. §20-2-201. Georgia law provides that "all laws and the policies and regulations of the State Board of Education applicable to local school systems and local school system boards of education shall be applicable to the agencies and their boards of control unless explicitly stated otherwise in this part." O.C.G.A. §20-2-204(b). Thus, under O.C.G.A. §20-2-204(b), appeals to the State Board of Education from decisions of the CESA Board would be authorized and O.C.G.A. §20-2-1160 which provides for

appeals from local boards of education would apply. The State Hearing Officer, therefore, concludes that the State Board of Education has jurisdiction to decide this appeal.

The State Board of Education follows the rule that, if there is any evidence to support a decision of a local board, the State Board will not reverse the decision upon review absent an abuse of discretion by a local board. See, Ransum v. Chattooga Cnty Bd. of Ed., 144 Ga. App. 783 (1978); Antone v. Greene Cnty Bd. of Ed., Case No. 1976-11. Because this appeal arises under O.C.G.A. §20-2-1160, the any evidence rule applied to local boards should also apply to decisions of CESA boards.

Appellant was charged with insubordination, first in that he failed to follow reasonable instructions from superiors in completing state reports. The Director testified that he received a report from Appellant's supervisor that the supervisor told Appellant to complete certain State forms and that those forms were not completed. The Director then confirmed that the forms had not been properly completed. Appellant contends on appeal that there was controversy as to how the forms were to be filled out. However, the CESA Board, as the trier of fact, could have reached the conclusion that Appellant chose not to complete the forms after receiving a proper instruction, and, therefore, was insubordinate.

Appellant was charged with insubordination, in the second instance, in that he failed to follow instructions from superiors in completing agency reports. There was testimony in the record

that the Director had informed Appellant of the requirement to keep a daily sign-in, sign-out sheet and testimony from the secretary at Appellant's office that Appellant did not keep the record. Appellant contends that he tried to keep the records requested but, for a period of time, misunderstood the requirement. The trier of fact had to make a judgment as to whether the failure to keep the records was intentional and, therefore, amounted to insubordination.

Appellant was charged with insubordination in the third instance in that he failed to follow requirements for applying for a GLRS position. This resulted from Appellant's request of others in the education field to provide recommendations for him. The record is void of any evidence of an order or directive by a superior and a willful failure by Appellant to perform as directed. From the record, it does not appear that Appellant was under any obligation to apply for the GLRS position so that any application, whether proper or improper, would not constitute insubordination.

The State Hearing Officer concludes that there was evidence of Appellant's insubordination because of his failure to complete state and agency reports as directed. Appellant, however, was not insubordinate in the manner in which he applied for the GLRS position.

Appellant was also charged with willful neglect of duties in that he failed to serve the nine school system CESA area in an equitable manner and failed to keep proper records of his

activities. The evidence that Appellant failed to keep the sign-in, sign-out records as requested provides some evidence from which the CESA Board could conclude that Appellant willfully neglected his duties. Whether he equitably served the nine school systems, therefore, does not have to be decided.

Appellant was also charged with unprofessional conduct in that he falsely attacked, in writing, the character and conduct of a State Department of Education employee, and had repeatedly demonstrated unacceptable and uncooperative behavior to his superiors. The charge of unprofessional conduct is not listed as a ground for termination (which applies as the grounds for non-renewal under O.C.G.A. §20-2-942) under O.C.G.A. §20-2-940, although it could be considered to be included under §20-2-940 (a)8, which states "...any other good and sufficient cause." Appellant was on notice of the basis for the charge and had an opportunity to defend himself. The Hearing Officer, therefore, concludes that the charge of unprofessional conduct can properly be considered under the provisions of O.C.G.A. §20-2-940(a)(8).

The record shows that Appellant wrote a letter which charged a State Department of Education employee of unethical conduct. Appellant admitted on cross-examination that his actions may have been unprofessional because he had failed to check the facts supporting his accusations. The Hearing Officer concludes that there was some evidence from which the CESA

Board could determine that Appellant's conduct was unprofessional to the extent it could be deemed "other good and sufficient cause" for nonrenewal.

Appellant argues that none of the actions he was charged with are individually significant enough to warrant a decision not to renew his contract. The CESA Board's decision, he therefore argues, was thus arbitrary and capricious. As countered by the CESA Board, the cumulative actions can be viewed to determine whether to renew a teacher's contract. The State Board of Education cannot substitute its judgment for a local board's judgment in reaching a decision. Since there was some evidence in support of the charges of insubordination and willful neglect of duties and unprofessional conduct, the State Hearing Officer concludes that the CESA Board's decision was not so arbitrary and capricious that it was illegal. Appellant's argument, therefore, provides an insufficient base for reversing the CESA Board's decision.

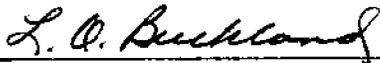
PART IV

RECOMMENDATION

Based upon the foregoing, the record submitted, and the briefs and arguments of counsel, the Hearing Officer is of the opinion that there is evidence in the record to support the decision of the CESA Board that Appellant was insubordinate,

willfully neglected his duties, and other good and sufficient causes for nonrenewal. The Hearing Officer, therefore, recommends that the decision of the CESA Board be

SUSTAINED.



L. O. BUCKLAND
State Hearing Officer