

STATE BOARD OF EDUCATION

STATE OF GEORGIA

BEVERLY WEBB, )  
Appellant, )  
v. ) CASE NO. 1985-30  
CARROLL COUNTY BOARD OF EDUCATION, )  
Appellee. )

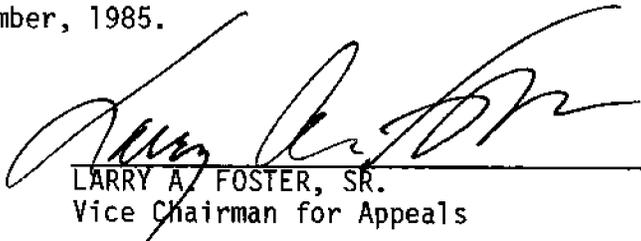
O R D E R

THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

DETERMINES AND ORDERS, that the Findings of Fact and Conclusions of Law of the Hearing Officer are made the Findings of Fact and Conclusions of Law of the State Board of Education and by reference are incorporated herein, and

DETERMINES AND ORDERS, that the decision of the Carroll County Board of Education herein appealed from is hereby SUSTAINED.

This 14th day of November, 1985.

  
\_\_\_\_\_  
LARRY A. FOSTER, SR.  
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

BEVERLY WEBB,	)	
	)	
Appellant,	)	CASE NO. 1985-30
	)	
v.	)	
	)	
CARROLL COUNTY	)	
BOARD OF EDUCATION,	)	
	)	RECOMMENDATION OF
Appellee.	)	STATE HEARING OFFICER

PART I

SUMMARY OF APPEAL

This is an appeal by Beverly Webb (hereinafter "Appellant") from a decision of the Carroll County Board of Education (hereinafter "Local Board") not to renew Appellant's teaching contract for the 1985-86 school year. Appellant was charged with insubordination and willful neglect of duties as a result of her tardiness in reporting to work. Appellant contends the evidence presented did not support the charges, the decision of the Local Board was arbitrary and capricious, Appellant's due process and equal protection rights were violated, and the Local Board erred in ruling on objections to evidence presented at the hearing. The Local Board contends the any evidence rule requires the State Board of Education to affirm the decision of the Local Board, the notice provided Appellant was sufficient and Appellant's equal protection rights were not violated by any selective enforcement of the rules against tardiness. The State Hearing Officer recommends the decision of the Local Board be sustained.

PART II

FACTUAL BACKGROUND

Appellant has taught in the Local System for the past fourteen years. From 1974 until this school year, she taught at the kindergarten level.

By letter dated April 8, 1985, the Local School Superintendent notified Appellant that her contract would not be renewed for the 1985-86 school year. By letter dated April 15, 1985, Appellant requested that the due process procedures of state law be implemented. The Local Board, through its attorney, responded by letter dated April 19, 1985. In that letter, Appellant was informed that the reasons for her nonrenewal were insubordination and willful neglect of duty in that she, despite repeated requests and counseling concerning tardiness, refused to comply with Board policy concerning attendance and made false entries in the time records maintained at her place of employment. It was further stated that she used improper language in front of students, and failed to attend school after stating she was ill although she performed other work on the same day. The letter listed the witnesses the Local Board intended to call and stated that the time records maintained by the school would be offered into evidence. By letter of April 24, 1985, Appellant objected to the charges stated in the April 19, 1985 letter as not being stated with enough particularity to enable her to show any error

that may exist as is required by O.C.G.A. §20-2-940. The Local Board attorney provided further specifics regarding the charges and the testimony of the individual witnesses by letter dated May 1, 1985.

Appellant moved to dismiss the charges filed against her based upon her contention that the original notice letter was not detailed enough and because the follow up letter further specifying the facts was sent past the fourteen day deadline. Additionally, Appellant objected to certain specifics in the letter, namely, the charge of insubordination for blaming another teacher for her problems with the administration, the charges relating to unprofessional treatment of another teacher, the failure to specify the date when an alleged unprofessional comment was made and because that comment would not justify nonrenewal.

The hearing was held on May 13, 1985 before a Professional Practices Commission tribunal. The Hearing Officer denied Appellant's motion to dismiss and, after the Local Board attorney agreed to exclude testimony regarding Appellant's blaming another teacher for her problems with the administration, the Hearing Officer denied Appellant's motion to exclude the evidence regarding the unprofessional comment. Thereafter, the hearing continued with the school administration presenting evidence that Appellant was tardy on numerous occasions, was warned in 1981 about her excessive tardiness by the Local Superintendent, was counseled regarding her tardiness by the school principal in 1983, marked

unsatisfactory on her evaluation due to tardiness in 1983, and was again counseled in 1984 and notified in January of 1985 that tardiness would result in the principal's not recommending Appellant for the 1985-86 school year. Appellant admitted being tardy, but contended that she had good reasons for being tardy because she had to wait for her children to get on the bus to go to school in light of threats made against her family after the murder of her husband. She also presented evidence through the time sheets that other teachers were late and not penalized and that the Local Board refused to grant her a transfer to a school nearer her house so she could wait for the children to get on the bus and still arrive at work on time. At the conclusion of the hearing, the Local Board decided to accept the Superintendent's recommendation of nonrenewal on the basis of Appellant's "neglect of her job of being late."

This appeal was filed by letter dated June 7, 1985.

### PART III

#### DISCUSSION

Appellant contends on appeal the evidence presented did not support the charges, the decision of the Local Board was arbitrary and capricious, and Appellant's due process and equal protection rights were violated.

Appellant contends the evidence does not support the charges that she was willfully neglectful of her duties. She admits she

had a problem being late to school but contends that she recognized the problem, the school system was aware of the problem, and she had sought a transfer to try to correct the problem.

Appellant contends that the decision of the Local Board was arbitrary and capricious and a denial of her right to equal protection. She contends that other teachers were tardy and failed to sign in or out as required. Thus, she argues that she was singled out for invidious discrimination, as she was treated differently from other teachers, in violation of her constitutional rights.

Appellant contends that her due process rights were violated because the initial charges against her were filed in vague and general terms alleging that Appellant refused to comply with orders of the Local Board administration without stating the dates she refused to comply or the policies she violated concerning attendance. She also contends that the charges of using improper language and of failing to attend school were vague. She contends her due process rights were violated because the initial notice failed to comply with the requirements of O.C.G.A. §20-2-940 and the follow up notice was delivered after the fourteen day deadline required by O.C.G.A. §20-2-942.

Appellant's final contention is that the Local Board erred when it failed to make findings of fact and to indicate the evidence upon which it relied in making its decision.

The Local Board contends that there was ample evidence that Appellant was tardy, the testimony showed Appellant had been

tardy far more than other teachers, the Local Board's initial notice letter complied with the requirements of O.C.G.A. §20-2-940, and that the Local Board is not required to make findings of fact.

The State Board of Education is bound to affirm the decision of the Local Board if there is any evidence to support its decision. See, Ransum v. Chattooga Cnty Bd. of Ed., 144 Ga. App. 783 (1978); Antone v. Greene Cnty Bd. of Ed., Case No. 1976-11. In the present case, the Local Board decided that the Superintendent's decision not to renew Appellant's contract should be upheld based upon "the neglect of her job of being late." The sign-in and sign-out sheets, testimony of other teachers, and Appellant's own testimony all constituted sufficient evidence to show that Appellant willfully neglected her duties. Appellant knew the time she was supposed to report for work, she was counseled regarding her tardiness, and she still did not arrive to work on time. It is clear that Appellant had, in her mind, good reasons for being late. However, the Local Board was not required to accept those reasons.

Appellant's argument that the Local Board selectively enforced the tardiness policy against Appellant is not supported by the facts. The testimony and the records showed that Appellant was tardy for many years and her tardiness problems far exceeded other teachers.

Appellant's argument that she was denied due process because the notice provided initially was not sufficient and because the

follow up notice was too late does not provide grounds for reversal of the decision of the Local Board. The April 19, 1985 notice stated:

The reasons for which your contract is not being recommended for renewal is insubordination and willful neglect of duties in that you, despite repeated requests and counseling concerning tardiness, have refused to comply with school board policy concerning attendance and that you have made false entries in the time records maintained at your place of employment ... We propose to call as witnesses in support of the above facts Donald Nixon, Carol Williams, Nell Wright, Dr. Travis Edmundson, Judy O'Malley, and Quinton Miles. We shall also offer into evidence time records maintained by the school....

O.C.G.A. §20-2-940 requires that the notice state the cause in sufficient detail to enable Appellant to show any error that may exist, the names of the known witnesses and a concise summary of the evidence to be used against Appellant. The notice above clearly states that Appellant was charged with willful neglect of duty. It also states that Appellant failed to comply with school board policy concerning attendance, names the witnesses intending to testify against her, and stated that the Local Board intended to offer into evidence the time records maintained by the school. Thus, with respect to the charge of willful neglect of duty, which is what she was found guilty of, the notice clearly complied with O.C.G.A. §20-2-940. Whether the other items mentioned in the notice were sufficiently detailed is not necessary to address on appeal because the Local Board found Appellant guilty of willful neglect of duty and sufficient notice was provided to Appellant to enable her to defend against that charge.

Appellant's final contention, that the Local Board erred when it failed to make findings of fact, also does not require reversal of the decision of the Local Board. This issue has been addressed numerous times in appeals before the State Board of Education, each time with the State Board of Education deciding that the local boards are not required to make findings of fact. Kelson v. The Board of Public Education for the City of Savannah and the County of Chatham, Case No. 1982-15; Hicks v. Dougherty Co. Bd. of Ed., Case No. 1980-30; Wright v. Dodge Co. Bd. of Ed., Case No. 1978-4. The issue has also been raised with the Courts and decided adversely to Appellant. Cf., Ransum v. Chattooga Cnty Bd. of Ed., 144 Ga. App. 783 (1978). Appellant has not provided any new statutory or case law which indicates that the position of the State Board of Education should change.

#### PART IV

#### RECOMMENDATION

Based upon the foregoing discussion, the record presented, and the briefs and arguments of law, the State Hearing Officer is of the opinion there is evidence to support the decision of the Local Board not to renew Appellant's teaching contract because of willful neglect of duty and that no constitutional or statutory violations occurred in the hearing process. The State Hearing Officer, therefore, recommends the decision of the Local Board be  
  
SUSTAINED.

  
\_\_\_\_\_  
L. O. BUCKLAND  
STATE HEARING OFFICER