

On March 22, 1993, the Local Board held a hearing to consider charges made against Appellant. The Local Superintendent charged Appellant with incompetency, insubordination, willful neglect of duty, immorality, and other good and sufficient cause.

Out of seven specifications of incompetency, there was no evidence, or only incompetent evidence, presented for five of the specifications. The two remaining specifications related to Appellant's failure to properly maintain a grade book and the arbitrary assignment of grades based upon the oral performance of the students.

During the hearing, evidence was presented that Appellant assigned a weight of 60% to the students' oral performance. During the first six-week period, several parents complained about the grades their children received. The principal questioned Appellant about the grades and was unable to determine how the grades were calculated when he reviewed Appellant's grade book. The principal asked Appellant to write an explanation on how grades were assigned. He also asked her to prepare a checklist to provide some objectivity to her assignment of grades. Appellant responded with an eleven-page statement about her philosophy of grading and a condemnation of the use of checklists. When the principal asked her to produce a one—page explanation, Appellant prepared an explanation that the students were able to copy into their notebooks. There was no evidence that Appellant used the checklist to determine the oral presentation portion of the students' grades.

Appellant was charged with insubordination because she failed to correct her grading procedures. The only evidence concerning the charge was the evidence recited above concerning the charges of incompetency. Similarly, the charge of willful neglect of duty related to the same incidents recited for the charge of incompetency.

Appellant was charged with immorality on the grounds she discussed personal sexual activities with her students. During the hearing, student witnesses described her comments. Appellant denied the comments and claimed the students were lying.

Appellant was charged with other good and sufficient cause because she directed racial comments towards a group of students on one occasion and against one student on another occasion. Two students testified they heard and saw Appellant make the comment towards the group of students. A general disruption occurred in the classroom following the comment and the assistant principal was called to the classroom. Appellant denied she made the comment and claimed the students lied about her.

Additional evidence was submitted without objection about various conditions or situations concerning Appellant's classroom management. Appellant, however, was not charged with any of these situations.

After the hearing, the Local Board voted to sustain the charges without making any findings of fact. Appellant then filed a timely appeal to the State Board of Education.

PART III

DISCUSSION

On appeal, Appellant claims that the evidence does not support the charges. Additionally, she claims that the Local Board's decision should be reversed because the Local Board failed to make findings of fact. The Local Board claims there is evidence to support the charges.

The burden of proof is on a local board. O.C.G.A. § 20-2-940(E)(4). “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).

A local board of education is not required to make findings of fact. *See, Jones v. Montgomery Cnty. Bd. of Educ.*, Case No. 1982-13 (Ga. SBE, Nov. 11, 1982). In the absence of any findings, however, we cannot determine the basis upon which the Local Board decided to terminate Appellant’s services. There was no evidence that Appellant was insubordinate or willfully neglected her duties. There was, however, some evidence of incompetence. Also, if the Local Board believed the testimony of the students, then there may be some evidence of immorality and other good and sufficient cause.

There was evidence that Appellant’s system of assigning grades appeared to be arbitrary. She assigned 60% of the final grade on a student’s oral performance, which she defined as whether the student’s speech sounded right according to her subjective evaluation. Appellant was unable to adopt an objective grading system as proposed by the principal, even though she agreed to make such changes. The State Board of Education, therefore, concludes there is some evidence of Appellant’s incompetence.

Our determination that there was some evidence to support the charge of incompetence is sufficient to sustain the Local Board’s decision. We do not, therefore, decide whether there was any evidence to sustain the charges of immorality and other good and sufficient cause.

PART IV

DECISION

Based upon the foregoing, the State Board of Education is of the opinion that there was evidence that Appellant was incompetent. The Local Board's decision, therefore, is

SUSTAINED.

This 8th day of July, 1993.

Mrs. King and Mr. Sessoms were not present Mr. Al Abrams' seat is vacant due to his resignation effective Apr 1 30, 1993.

Robert M. Brinson
Vice Chairman for Appeals