

that occurred in previous years. For example, in 1995, Appellant received a written reprimand because a student took some strips of metal to a grinding wheel and ground points on one end of each strip so they could have been used as weapons. The Local Superintendent claimed this incident showed insubordination. In addition, in 1994, Appellant was warned about the “deplorable condition” of his shop area. The Local Superintendent claimed this incident constituted incompetency, insubordination, and willful neglect of duties.

The Local Board found against Appellant on all charges, with the finding on each charge that it would have dismissed Appellant on that charge standing alone. Appellant filed an appeal to the State Board of Education.

On appeal, Appellant claims that a nexus has to be shown between an employee’s off-duty conduct and the duties the employee is required to perform before the off-duty conduct can be used as a basis for termination, and, in this instance, the Local Board failed to establish such a nexus.

In Dominy v. Mays, 150 Ga. App. 187, 257 S.E.2d 317 (1979), the Court upheld the dismissal of a teacher on grounds of immorality without the need for finding a nexus between the teacher’s possession of drugs and her teaching ability. Similarly, in Logan v. Warren County Bd. of Educ. 549 F. Supp. 145 (S.D. Ga. 1982), the Court found that there was no requirement for finding a nexus between the duties of a principal and the filing of false income tax returns. In both Dominy and Logan, the public knowledge of the employee’s actions was sufficient to support the local board’s decision to terminate the employee’s contract.

In the instant case, the local newspapers ran stories about Appellant’s arrest and conviction of driving under the influence of alcohol. Thus, if a nexus is required, there is a connection between Appellant’s off-duty conduct and his ability to serve as model for teenage students. In addition, Appellant had been previously admonished that any future incidents of driving under the influence would be deemed to be insubordination and grounds for termination. The State Board of Education, therefore, concludes that there was evidence of insubordination.

Appellant also claims that the Local Board erred in receiving evidence of any prior-year incidents because the incidents did not relate to the charge of driving under the influence and were prejudicial to his defense. In Palmer v. Putnam County Bd. of Educ., Case No. 1976-8 (Ga. SBE, 1976), the State Board of Education held that evidence of prior year conduct could be considered by a local board if the acts had some relevancy to the teacher’s current conduct. The appearance of Appellant’s classroom area, the control of his students, and the preparation of lesson plans in prior years were all known at the time his teaching contracts were renewed and cannot, therefore, serve as a basis for termination unless they are relevant to the charge of driving under the influence of alcohol. The Local Board, however, failed to establish that such conduct was relevant to the charge of driving under the influence. The State Board of Education, therefore, concludes that the Local Board erred in permitting the introduction of evidence relating to the prior year incidents.

The issue to be decided, therefore, is whether the Local Board's decision should be sustained after it erroneously received evidence of the prior-year conduct. Appellant claims that the evidence was so prejudicial that it influenced the Local Board's decision, while the Local Board argues that it specifically found that it would have dismissed him because of the driving under the influence charge alone. "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 County Bd. of Educ., Case No. 1991-14 (Ga. SBE, Aug. 8, 1991)." In the instant case, the State Board of Education concludes that Appellant's DUI conviction is sufficient, especially in light of the January 12, 1996 conviction of DUI, to warrant Appellant's dismissal. The introduction of the prior year incidents involving incompetence, insubordination, and willful neglect, therefore, was harmless error.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board's decision is supported by the evidence and should not be reversed because it received information concerning prior-year incidents. The Local Board's decision, therefore, is SUSTAINED.

This 13th day of February, 1997.

Larry Thompson
Vice Chair for Appeals