

STATE BOARD OF EDUCATION  
STATE OF GEORGIA

JOHN L. BENNIE, JR., :  
: Appellant, :  
vs. : CASE NO. 1978-33  
ATLANTA CITY 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 Atlanta City Board of Education herein appealed from, is hereby affirmed.

Mr. McClung and Mrs. Huseman were not present.

This 8th day of February, 1979.

  
THOMAS K. VANN, JR.  
Vice Chairman for Appeals

FEB 1 1979

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JOHN L. BENNIE, JR.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 1978-33
	:	
THE ATLANTA BOARD OF	:	
EDUCATION, THE ATLANTA PUBLIC:	:	
SCHOOL SYSTEM, DR. ALONZO	:	
CRIM, Superintendent,	:	
	:	
Appellees.	:	

PART I

SUMMARY OF APPEAL

This is an appeal by John L. Bennie, Jr. (hereinafter "Appellant") from a decision by the Atlanta Board of Education (hereinafter "Local Board") not to renew his contract as a music teacher and choral director for the 1978-1979 school term. The decision of the Local Board was made on the grounds of incompetency, wilful neglect of duties, and for other good and sufficient cause. The appeal is based on Appellant's assertion that the evidence submitted does not support the charges or the decision of the Local Board. The Hearing Officer recommends that the decision of the Local Board be upheld.

PART II  
FINDINGS OF FACT

Appellant was employed by the Local Board for ten years. He was serving as a music teacher and choral director. On April 12, 1978, the local superintendent notified Appellant in writing that his teaching contract would not be renewed for the 1978-79 school year. Appellant then made a request, on April 23, 1978, for a hearing before the Local Board. In a letter dated May 10, 1978, Appellant was given a list of the reasons for the proposed non-renewal of his contract and a list of the witnesses who would testify for the school system.

Appellant was notified that the reasons for his non-renewal were deficiencies in his classroom management and organization, his failure to plan adequately and far enough in advance for choral programs, that he failed to recruit students for the choral program, that he failed and refused to cooperate in work with other members of the faculty in the presentation of music programs, and that he failed to remedy the deficiencies pointed out to him during numerous counselling sessions.

The hearing before the Local Board was held on May 23, 1978. Appellant was represented by counsel and was given an opportunity to examine and cross-examine witnesses and present evidence. The Local Board issued its decision

not to renew Appellant's contract on May 30, 1978. Appellant then appealed to the State Board of Education. The basis for the appeal is that the evidence presented at the hearing did not support the decision of the Local Board. Appellant pointed out many inconsistencies in the evidence presented to the Local Board and seeks to establish that the Local Board erred in finding against him.

The Local Board did not issue any findings of fact with its decision. A review of the record discloses that Appellant enjoys a good reputation with his associates and former employers and his former students. There were inconsistencies in the evidence presented to the Local Board concerning some of the charges. The inconsistencies, however, did not refute the charges.

As an example of late planning, in one instance Appellant was notified in August, 1977, that his students would be able to attend a symphony which required transportation of the students. The transportation required the collecting of money from the students, requesting the transportation, and paying for the transportation. Two hours before the concert, the principal discovered that the transportation had not been requested and the money had not been collected from the students. Through the principal's personal intervention, the transportation was arranged and the students were able to attend the symphony concert. Appellant did not introduce any conflicting evidence regarding this incident.

Evaluations were made of Appellant's performance, but only one written evaluation was contained in Appellant's file. The written evaluation, which was favorable, was made by the former assistant principal in October, 1977.

### PART III

#### CONCLUSIONS OF LAW

The State Board of Education sits as an appellate review body. Ga. Code Ann. §32-910. As such a body, it is bound by the decision of a local board of education if there is any evidence to support the decision. Ransum v. Chatooga Board of Education, 144 Ga. App. 783, 242 S.E.2d 374 (1978); Antone v. Greene County Board of Education, Case No. 1976-11. In the instant case, there was conflicting testimony concerning the charges. There was, however, evidence before the Local Board, as the trier of fact, that the Local Board could accept, in rejection of the contrary evidence, which would sustain the decision.

The main assertion of Appellant's appeal is that the credibility of the witnesses should be questioned on review. Additionally, Appellant complains that there were no written evaluations of his performance or other written documents which supported the charges. The State Board of Education, however, cannot determine the credibility of the witnesses from the transcript. The Local Board heard the

testimony and could determine the credibility of the witnesses. Additionally, the Local Board could rely on oral testimony as well as written documents. While the lack of written evaluation forms might create a problem of proof, the evidence does not fail in their absence. The record, therefore, does contain sufficient credible evidence which would support the decision of the Local Board.

PART IV

RECOMMENDATION

Based upon the above findings and conclusions, the record submitted, and the briefs and arguments of counsel, it is the opinion of the Hearing Officer that there was competent evidence available to support the decision of the Local Board. The Hearing Officer, therefore, recommends that the decision of the Atlanta Board of Education not to renew Appellant's contract be upheld.

*L. O. Buckland*  
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L. O. BUCKLAND  
Hearing Officer