STATE BOARD OF EDUCATION
STATE OF GEORGIA

KATHERINE RINDERLE,	:	
	:	
Appellant,	:	
	:	**CASE NO.: 2024-12**
v.	:	
	:	**DECISION**
COBB COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by Katherine Rinderle ("Appellant") from the decision of the Cobb County Board of Education ("Local Board") to terminate her employment contract for violating O.C.G.A. § 20-2-940(a)(3) (willful neglect of duties) and O.C.G.A. § 20-2-940(a)(8) (other good and sufficient cause). For the following reasons, the decision of the Local Board is hereby **AFFIRMED**.

I. FACTUAL BACKGROUND

During the 2022-2023 school year, the Appellant was a teacher at Due West Elementary School in the Cobb County School District ("District"). She had been a teacher in the District for ten years. The Appellant was classified as a target teacher or gifted specialist. She taught gifted students in grades one through five.

On March 8, 2023, the Appellant read to her 5th Grade Advanced Learning Program ("Target") Class a book entitled *My Shadow is Purple.* The front cover of the book depicts a young masculine-presenting character wearing a blue button-down shirt, pants, and nondescript shoes that appear to be sneakers. The character's shadow depicts the character wearing a tuxedo-style top with a bowtie and a flared skirt.

The description located on the back of the book states:

My Dad has a shadow that's blue as a berry,
and my Mom's as pink as a blossoming cherry.

There's only those choices, a 2 or a 1.
But mine is quite different, it's both and it's none.

A heartwarming and inspiring book about being true
to yourself, by best-selling children's book creator
Scott Stuart.

This story considers gender beyond binary in a
vibrant spectrum of color.

The Appellant purchased *My Shadow is Purple* with her personal funds at the school's scholastic book fair. The book fair is a fundraiser for the school media center. The District does not select the books that are sold at the book fair or preapprove the books for use in the classroom.

The Appellant purchased *My Shadow is Purple* because she thought that it was supportive of the gifted standards and reflective of the community that she serves, including students who are LGBTQ or nonbinary. According to the Appellant, *My Shadow is Purple* was about diversity, inclusion, and acceptance.

The Appellant regularly allowed her students to select a picture book to be read aloud in class. On the day in question, the students voted for the book that they wanted to have read in class. Initially, no book received a majority vote. The students were given a second opportunity to select a book, and the majority of the students choose *My Shadow is Purple.* There was some student commentary regarding the perceived gender of the character based on the depiction of the character on the front of the book. The Appellant told the students that they should refer to the character as "the character" or "they" since they had not yet read the book. After reading the book, the Appellant asked the students to draw a picture of their shadows and write a poem about their shadows.

The Appellant did not notify school administrators or the students' parents that the book would be read in class. However, the Appellant previewed the book and, in her professional judgment, determined that it was appropriate for the class and that no notice or permission was necessary. The students in the class were ten and eleven years old. An investigation was undertaken after some of the parents complained about the book being read to their children. Other parents, however, were supportive of the Appellant.

II. PROCEDURAL HISTORY

By letter of June 6, 2023,[1] the District notified the Appellant that it intended to terminate her employment for insubordination, willful neglect of duties, and any other good and sufficient cause pursuant to O.C.G.A. §§ 20-2-940(a)(2), (a)(3), and (a)(8). The District sought to terminate the Appellant's employment contract because the Appellant held a lesson with her 5th Grade Target Class utilizing the book, *My Shadow is Purple,* which "considers gender beyond binary in a vibrant spectrum of color."

A two-day hearing took place on August 10 and 11, 2023 before a tribunal comprised of three retired administrators from the District ("Tribunal"). A hearing officer presided over the proceeding. As a preliminary matter, the Appellant moved to dismiss the charges of insubordination and willful neglect of duties on the basis that the charge letter failed to allege facts sufficient to support the charges. The hearing officer denied the motion, and the proceeding went forward.

[1] The charge letter was amended twice as to the date and time of the hearing.

On August 14, 2023, the Hearing Tribunal issued "Findings of Fact and Recommendations to the Cobb County Board of Education" as follows:[2]

1. Katherine Rinderle is employed by Cobb County School District ("CCSD") under a contract of employment as a teacher.

2. The Superintendent recommended Ms. Rinderle's contract of employment be terminated and sent her a Charge Letter, first issued on June 6, 2023, and subsequently amended as to date and time of the hearing via a first amended Charge Letter on June 14, 2023, and via a second amended Charge Letter on July 18, 2023.

3. Ms. Rinderle was charged with violating:
   a. O.C.G.A. §§ 20-2-940(a)(2): Insubordination
   b. O.C.G.A. §§ 20-2-940(a)(3): Willful Neglect of Duties; and
   c. O.C.G.A. §§ 20-2-940(a)(8): Other Good and Sufficient Cause.

4. A Fair Dismissal hearing was held on August 10, 2023 and August 11, 2023, with Tom Cable, Esq. presiding as Hearing Officer pursuant to O.C.G.A. § 20-2-940(e) and Hearing Tribunal members: Linda Keeney, John Kelly, and Cheryl Davis.

5. Ms. Rinderle was represented by Craig Goodmark and Michael Tafelski. Sherry Culves appeared on behalf of CCSD.

6. On March 8, 2023, Ms. Rinderle read *My Shadow is Purple* to her 5th Grade Target Class. *Agree / Disagree*

7. The book *My Shadow is Purple* addresses the topic of gender identity along with other concepts. *Agree / Disagree*

8. The book *My Shadow is Purple* considers gender beyond binary. *Agree / Disagree*

9. On March 8, 2023, Ms. Rinderle implemented a lesson using *My Shadow is Purple* to her 5th Grade Target Class which involved the topic of gender identity or gender fluidity once use of pronouns They/Them was introduced. *Agree / Disagree*

[2] The Tribunal adopted the District's proposed findings of fact and recommendations. Many of the findings of fact include a statement followed by an option for the Tribunal to "agree / disagree," or in some instances, indicate whether actions "have / have not" occurred, or whether certain conduct caused the District to "lose / not lose" confidence. The option selected by the Tribunal is underlined. Similarly, in some instances, the Tribunal modified the proposed findings by inserting adding language, which is also underlined. The Tribunal rejected all or part of some of the proposed findings, which is indicated by a strikethrough of that language.

10. Ms. Rinderle was knowingly untruthful in her statements to investigators when she denied that the book and her lesson on *My Shadow is Purple* addressed the topic of gender identity and gender fluidity. *Agree / Disagree*

11. Ms. Rinderle was knowingly untruthful when she denied understanding that the topic of gender identity or gender fluidity was a sensitive or controversial topic in this community. *Agree / Disagree*

12. Ms. Rinderle exhibited poor judgment when she failed to recognize that the book and her lesson on *My Shadow is Purple* addressed the topic of gender identity. *Agree / Disagree*

13. The content of *My Shadow is Purple* involves a sensitive and controversial topic as covered by CCSD Administrative Rules IFAA-R: Instructional Resources Selection and Acquisition and IKB-R: Controversial Issues. *Agree / Disagree*

14. The content of *My Shadow is Purple* involves a topic that may be deemed not appropriate for a teacher to introduce to elementary students in a CCSD classroom. *Agree / Disagree*. Topics of a sensitive nature should be reviewed with admin.

15. ~~The book *My Shadow is Purple* does not present a balanced view of the differing viewpoints on gender identity and gender fluidity. *Agree / Disagree*~~

16. ~~The content of *My Shadow is Purple* involves a topic that should be left for parents to address with their children at home, as discussed in CCSD Administrative Rule JRB-R. Agree / Disagree~~

17. During the lesson, the students engaged in a debate about the gender of the character with some of the students expressed ~~that the character was a boy~~ confusion on how to address the main character. *Agree / Disagree*

18. Ms. Rinderle directed students to refer to the character in the book as "the character" or "they." ~~and not as boy or "he/him."~~ *Agree / Disagree*

19. According to two students statement, Ms. Rinderle, ~~Ms. Rinderle~~ told students that their opinion that the character was a boy was due to their own biases or stereotypes. *Agree / Disagree*

20. Ms. Rinderle instructed students to conduct an activity that involved them reflecting on the book by drawing their own shadows and writing a poem. *Agree / Disagree*

21. ~~Ms. Rinderle encouraged the students not to use the colors pink or blue in their drawings and poems. *Agree / Disagree*~~

22. Ms. Rinderle read *My Shadow is Purple* and implemented this lesson without informing school administration or families ahead of time. *Agree / Disagree*

23. Ms. Rinderle read *My Shadow is Purple* and implemented this lesson without completing Form IFFA-1 or complying with District policies and rules surrounding supplemental resources. *Agree / Disagree*

24. Ms. Rinderle did not provide families an opportunity to opt out of the lesson or address the topic of gender identity or gender fluidity with their children first. *Agree / Disagree*

25. ~~For some families, the topic of gender identity or gender fluidity involves a moral or religious belief. *Agree/Disagree*~~

26. ~~Ms. Rinderle has a pattern of making students feel uncomfortable in her class~~. ~~*Agree / Disagree*~~

27. ~~Ms. Rinderle's actions have caused multiple parents to complain over time regarding her lack of communication with them and making students feel uncomfortable.~~ ~~*Agree / Disagree*~~

28. ~~Ms. Rinderle's actions have caused the parents of at least eleven students to request that their children not be assigned to Ms. Rinderle's classroom.~~ ~~*Agree / Disagree*~~

29. Ms. Rinderle's emailed response to the parent complaint about her lesson on *My Shadow is Purple* was inappropriate and adversely impacted her professional relationship with her student's family. *Agree / Disagree*

30. Ms. Rinderle was trained on the District's policies, rules, and procedures on:

    a. IFAA-R: Instructional Resources Selection and Acquisitions
    b. IKB-R: Controversial Issues
    c. JRB-R: Parents' Bill of Rights
        - *Agree*

31. The committee believes that a reasonable educator exercising good professional judgment should have known that reading *My Shadow is Purple* to a 5th grade class in CCSD ~~without notifying administration ahead of time and following the requisite steps to obtain permission and approval was a violation of CCSD policies~~ is not appropriate, and should have communicated with local school admin. for approval. *Agree / Disagree*

32. ~~In January 2022, Ms. Rinderle read her class a children's book authored by a current political candidate and tagged the candidate on social media, causing some of her students' parents to complain~~. ~~*Agree / Disagree*~~

33. ~~As a result of the January 2022 incident, Ms. Rinderle was warned about the perception of political bias in her class and cautioned to follow the District's policies when selecting supplementary materials and conducting lessons that could appear to be political or controversial.~~ ~~*Agree / Disagree*~~

34. ~~Ms. Rinderle failed to follow this directive to follow District policies when selecting supplemental materials and conducting lessons on controversial issues.~~ ~~*Agree/Disagree*~~

35. Ms. Rinderle's actions have demonstrated a lack of coachability.
Agree / Disagree

36. Ms. Rinderle's actions have demonstrated a lack of judgment.
Agree / Disagree

37. Ms. Rinderle's actions have demonstrated a lack of willingness to acknowledge the inappropriateness of her actions. *Agree / Disagree*

38. Ms. Rinderle's actions *have / have not* caused the School District to reasonably ~~lose~~ confidence in her ability to continue as an educator ~~District~~ within the Due West Community.

39. ~~Ms. Rinderle's actions *have / have not* adversely affected her ability to be effective as a teacher in the Cobb County School District~~.

40. Ms. Rinderle's actions *have / have not* violated School District policies and administrative rules:

    a. IFAA-R: Instructional Resources Selection and Acquisitions
    b. IKB-R: Controversial Issues
    c. ~~JRB-R Parental Bill of Rights~~
    d. ~~GAGC-R: Employee Ethics~~
    e. ~~Form GAGC-1: Professional Conduct by Educators~~
    f. ~~PSC Code of Ethics, Standard 4: Honesty~~
    g. PSC Code of Ethics, Standard 9: Professional Conduct

41. ~~Ms. Rinderle knowingly and intentionally violated District policies and administrative rules.~~ ~~*Agree / Disagree*~~

42. Ms. Rinderle ~~willfully~~ disobeyed the instructions of her supervisor to avoid sensitive and controversial topics in the selection of supplemental resources ~~and to follow District policies and procedures for approval of such supplemental resources~~. *Agree / Disagree*

43. The Hearing Tribunal considered all the testimonial and documentary evidence presented by both parties and admitted into evidence. The Hearing Tribunal finds the following violations by a preponderance of the evidence:

O.C.G.A. § 20-2-940(a)(2): Insubordination ___yes _x no
O.C.G.A. § 20-2-940(a)(3): Willful Neglect of Duties _x yes ___no
O.C.G.A. § 20-2-940(a)(8): Other Good and Sufficient Cause _x yes ___no

WHEREFORE, the Hearing Tribunal *affirms / <u>denies</u>* the recommendation of the Superintendent to terminate Ms. Rinderle's employment contract.

In response to the District's subsequent request for clarification of certain findings of fact made by the Hearing Tribunal, on August 15, 2023, the Hearing Tribunal issued an Addendum to its Finding of Fact and Recommendations to the Cobb County Board of Education which clarified the following factual findings:

17. During the lesson, the students engaged in a debate about the gender of the character, which some of the students expressed confusion on how to address the main character. *<u>Agree</u> / Disagree*

19. According to two students statement, Ms. Rinderle told students that their opinion that the character was a boy was due to their own biases or stereotypes. *<u>Agree</u> / Disagree*

38. "Ms. Rinderle's actions have caused the School District to reasonably *<u>lose</u> / not lose* confidence in her ability to continue as an educator within the Due West Community."

40. Ms. Rinderle's actions *<u>have</u> / have not* violated School District policies and administrative rules:

a. IFAA-R: Instructional Resources Selection and Acquisitions
b. IKB-R: Controversial Issues
g. PSC Code of Ethics, Standard 9: Professional Conduct

At its meeting on August 17, 2023, the Local Board adopted in full the Tribunal's findings of fact as reflected in the "Findings of Fact and Recommendations to the Cobb County Board of Education" and the "Addendum to Findings of Fact and Recommendations to the Cobb County Board of Education." However, the Local Board rejected the determination of the Tribunal that the Appellant's employment contract should not be terminated. Instead, the Local Board terminated the Appellant's employment contract on the bases of "Willful Neglect of Duties and Other Good and Sufficient Cause, and in light of the totality of the evidence submitted, the full record, and the factual findings by the Tribunal." By letter of August 18, 2023, the Local Board notified the Appellant that her employment contract was terminated immediately.

The Appellant appealed the decision of the Local Board to the State Board of Education ("State Board").

III. STANDARD OF REVIEW

In reviewing this appeal, this Board must apply the "any evidence rule." Thus, if there is any evidence to support the Local Board's decision, this Board must affirm it. *See Ransum v. Chattooga Cnty. Bd. of Educ.*, 144 Ga. App. 783, 242 S.E.2d 374 (1978). *See also*, *Chattooga Cnty. Bd. of Educ. v. Searles*, 302 Ga. App. 731, 691 S.E.2d 629 (2010). This Board will not substitute its judgment for that of the Local Board unless there is clear evidence that the Local Board's actions were arbitrary and capricious. *Dukes-Walton v. Atlanta Indep. Sch. Sys*., 336 Ga. App. 175, 784 S.E.2d 37 (2016); *King v. Worth Cnty. Bd. of Educ.*, 324 Ga. App. 208, 749 S.E.2d 791 (2013).

IV. DECISION

A. Due Process

1. Vagueness

The Local Board found that the Appellant violated policies IFAA-R (Instructional Resources Selection and Acquisitions) and IKB-R (Controversial Issues). The policies provide in pertinent part:

IFAA-R Instructional Resources Selection and Acquisition (7/1/22):

Part II.

A. SUPPLEMENTAL LEARNING RESOURCES

3. **Non-School Materials/Outside Presenters:**
   All non-school print and non-print materials utilized in the instructional program by teachers, students, and guest presenters shall be supportive of the adopted curriculum for the course being taught and appropriate for the targeted audience. It is the responsibility of the teacher to preview non-school materials prior to use and to inquire of a guest presenter information regarding his/her objectives and the contents of his/her presentation prior to the presentation.

B. SELECTION OF SUPPLEMENTAL LEARNING RESOURCES

Supplemental learning resources should be considered on the basis of the following:

1. The author or producer should be qualified as a subject specialist;
2. Concepts, content, and vocabulary should be appropriate for the potential user;
   a. Content harmful to minors shall be prohibited. As defined in O.C.G.A. §20-2-324.6, "harmful to minors" means that quality or description or

representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, when it:

(1) Taken as a whole, predominantly appeals to the prurient, shameful, or morbid interest of minors;

(2) Is patently offensive to prevailing standard in the adult community as a whole with response to what is suitable material for minors; and

(3) Is, when taken as a whole, lacking in serious literary, artistic, political, or scientific value for minors.

b. Content that advocates for divisive concepts shall be prohibited. As defined in O.C.G.A §20-1-11, "divisive concepts" means any of the following concepts, including views espousing such concepts:

(1) One race is inherently superior to another race;

(2) The United States of America is fundamentally racist;

(3) An individual, by virtue of his or her race, is inherently or consciously racist or oppressive toward individual of other races;

(4) An individual should be discriminated against or receive adverse treatment solely or partly because of his or her race;

(5) An individual's moral character is inherently determined by his or her race;

(6) An individual, solely by virtue of his or her race, bears individual responsibility for actions committed in the past by other individuals of the same race;

(7) An individual, solely by virtue of his or her race, should feel anguish, guilt, or any other form of psychological distress;

(8) Performance-based advancement or the recognition and appreciation of character traits such as a hard work ethic are racist or have been advocated for by individuals of a particular race to oppress individuals of another race; or

(9) Any other form of race scapegoating or race stereotyping.

(a) As defined in O.C.G.A. §20-1-11, "race scapegoating" means assigning fault or blame to a race, or to an individual of a particular race because of his or her race. Such term includes, but is not limited to, any claim that an individual of a particular race, consciously and by the virtue of his or her race, is inherently racist or is inherently inclined to oppress individuals of other races.

(b) As defined in O.C.G.A. §20-1-11, "race stereotyping" means ascribing character traits, values, moral or ethical codes, status, or beliefs to an individual because of his or her race.

3. Facts presented should be accurate and up to date;
4. Information should be logically arranged;
5. Subject matter should hold the attention of the student;
6. Format of the material should be attractive and durable;
7. Illustrations should be pertinent and well executed;
8. Items should meet a real or potential need;
9. Evaluations from standard selection aids should be given consideration;

10. Topics of a sensitive nature (i.e. social, political, religious) should be given a balanced treatment, with both pros and cons represented;
11. Equipment for purchase shall be considered on the basis of the following:
12. Quality;
13. Durability;
14. Ease of use;
15. Ease of maintenance and serviceability;
16. Functionality;
17. Safety; and
18. Cost.

C. SUPPLEMENTAL LEARNING RESOURCES REVIEW/PERMISSION:

1. **Preview:** Teachers are responsible for completely previewing all supplemental materials (regardless of their source) before using them for whole-class instruction.
2. **Permission:** The Teacher, Principal or designee of a school may require written permission (Form IFAA1 [Parent/Guardian Permission Form for Supplementary Materials]) of parents/guardians prior to the reading/viewing of supplementary materials if in his/her opinion the content may be of a sensitive nature within the school's community or the age group served by the school.

D. ALTERNATIVE ASSIGNMENTS:

Professional discretion of the Principal or designee and staff must be used in the use of supplementary materials which might include topics of a sensitive nature as perceived by the community served. Parents/guardians of a student always have the option of requesting alternative assignments.

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IKB-R Controversial Issues (7/1/22)

RATIONALE/OBJECTIVE:

The Cobb County School District (District) provides a broad-based curriculum and believes that students should understand varied perspectives as part of a balanced education and as part of producing the graduates described in Board of Education Policy IA (Student Performance Standards and Expectations).

. . .

B. POLITICAL/PARTISAN ISSUES:

1. District employees shall refrain from using classroom instruction or their relationships with students to influence students, or through them, their parents/guardians, regarding any one political or partisan side of an issue.
2. District employees shall refrain from using classroom instruction or their relationships with students in order to espouse personal political beliefs. As

defined in O.C.G.A. §20-1-11, "espousing personal political beliefs" means intentionally encouraging or attempting to persuade or indoctrinate a student, school community member, or other school personnel to agree with or advocate for such individual's personal beliefs concerning divisive concepts (see Administrative Rule IFAA-R).

3. As addressed in O.C.G.A. §20-2-786, parents have the right to direct the upbringing and the moral or religious training of their children. Therefore, District employees shall not improperly infringe upon this right.
4. **Intent**:
   This Rule shall not be interpreted to:
   a. Prohibit the discussion of political or controversial issues that are aligned with the Cobb Teaching and Learning Standards and District goals; or
   b. Discourage teachers from taking an active part in public issues and in supporting candidates of their choice.
5. **Instruction:**
   During classroom instruction:
   a. Objectivity on all issues shall be observed in instructional procedures;
   b. Balanced points of view on issues shall be presented; and
   c. Employees shall refrain from identifying their personal position on issues or preference regarding political candidates.

The Appellant argues that District policies IFAA-R (Instructional Resources Selection and Acquisitions) and IKB-R (Controversial Issues) are vague and contain undefined concepts. Specifically, the Appellant asserts that the vague concepts in IFAA include "appropriate for the intended user," "harmful to minors," "that advocates for divisive concepts," "[t]opics of a sensitive nature," and "balanced treatment." Moreover, the Appellant asserts that "sensitive" is not defined, other than a parenthetical reference to "social, political, religious," which terms are also undefined.[3]

Further, the Appellant asserts that District policy IKB limits instruction on "Controversial Issues," "Political/Partisan Issues," and "divisive concepts," and prohibits "improperly infringing" on the parent's "right to direct the upbringing and the moral or religious training of their children." With the exception of "divisive concepts," the Appellant contends that IKB does not define these terms.[4] Moreover, the Appellant contends that IKB's prohibition on improperly infringing on parents' "right to direct the upbringing and the moral or religious training of their children" is based solely on the subjective perception of others.

[3] The Appellant also asserts that IFAA leaves the determination as to whether a topic is "sensitive" to the Appellant's discretion (allowing the teacher to seek parental permission if "in his/her opinion the content may be of a sensitive nature"). *See* IFAA-R, Part II.C. The Tribunal, however, found that a reasonable educator exercising good judgment should have known that the book was inappropriate and sought approval from the school administration.

[4] The Appellant notes that the terms "controversial issues" and "political/partisan issues" are utilized as guidelines in the context of classroom instruction on the theories of origin. *See* IKB-R(C). The theories of origin are not at issue in this appeal, however.

"A law may be unconstitutionally vague if it fails to provide the kind of notice that will enable ordinary people to conform their conduct to the law or if it fails to provide sufficient guidelines to govern the conduct of law enforcement authorities, thus making the law susceptible to arbitrary and discriminatory enforcement." *In re D.H.*, 283 Ga. 556-557, 663 S.E.2d 139-140 (2008). In *D.H.*, a student challenged the constitutionality of a statute that made it unlawful to "disrupt or interfere with the operation of any public school, public school bus, or public school bus stop."[5] In particular, the student argued that "disrupt" and "interfere" were unconstitutionally vague, as they were undefined. In rejecting the vagueness argument, the court relied upon an earlier decision in *State v. Fielden*[6], where it "concluded that the natural and obvious meaning of the language used in the statute was sufficiently definite to warn persons of ordinary intelligence of the conduct that was prohibited and that the statute was not subject to arbitrary and discriminatory enforcement." *D.H.*, 283 Ga. at 557, 663 S.E.2d at 140 (citation omitted). The court in *D.H.* held, "[w]e reach the same conclusion in this case and conclude that the phrase "disrupt or interfere with the operation of any public school" contains words of ordinary meaning that give fair notice as to the statute's application." *Id.*

Similarly, in the instant case, the language about which the Appellant complains contains words of ordinary meaning that give fair notice of the conduct that is prohibited.

Additionally, the Local Board offers several decisions from other jurisdictions that considered and rejected the constitutional challenge to the phrase "controversial."

> *See Seidman v. Paradise Valley Unified Sch. Dist. No. 69*, 327 F. Supp. 2d 1098, 1115 (D. Ariz. 2004) (holding that a school district's verbal prohibition on messages of a "controversial" nature, a term it did not define, was not impermissibly vague); *Bd. of Educ. of Jefferson Cnty. Sch. Dist. R-1 v. Wilder*, 960 P.2d 695, 704 (Colo. 1998) (finding district policy regulating "controversial learning resources," a term not defined in the policy, was not unconstitutionally vague); *McCarthy v. Fletcher*, 207 Cal. App. 3d 130, 148, 254 Cal. Rptr. 714, 724 (Ct. App. 1989) (finding that district policy requiring teachers to evaluate instructional materials for "treatment of controversial issues" was not unconstitutionally vague even though it required some subjective interpretation).

Local Board brief, p. 21. While not binding, the decisions are instructive on the issue of vagueness.

"In the civil context, [a] statute must be definite and certain to be valid, and when it is so vague and indefinite that persons of common intelligence must necessarily guess at its meaning and differ as to its application, it violates the first essential of due process of law. To withstand an attack of vagueness or indefiniteness, a civil statute must provide fair notice to those to whom the

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[5] *See* O.C.G.A. § 20-2-1181.

[6] S*tate v. Fielden*, 280 Ga. 444, 629 S.E.2d 252, 254 (2006) (finding that "lawful meeting, gathering or procession" and "any conduct which may reasonably be expected" were not unconstitutionally vague even though the phrases were not defined or were not sufficiently clear).

statute is directed, and its provisions must enable them to determine the legislative intent." *Prof'l Stds. Comm'n v. Alberson*, 273 Ga. App. 1, 8, 614 S.E.2d 132, 138 (2005) (quoting *Anderson v. Atlanta Comm. for the Olympic Games*, 273 Ga. 113, 537 S.E.2d 345 (2000)).

"[A] constitutional attack to a statute on a vagueness ground that does not involve a First Amendment challenge must be decided on the particular facts of each case." *Alberson*, 273 Ga. App. at 8, 614 S.E.2d at 138 (internal citations omitted). "Thus, where, as here, the party challenging the statute or regulation does not allege that its purported vagueness implicates [her] First Amendment rights, the operative inquiry is whether the provision at issue gave the defendant due notice that it prohibited the conduct for which [she] was punished." *Id*. at 8-9, 614 S.E.2d at 138.

In that regard, the Tribunal found that (1) *My Shadow is Purple* addresses the topic of gender identity and considers gender beyond binary; (2) the Appellant exhibited poor judgment when she failed to recognize that the book and her lesson on *My Shadow is Purple* addressed the topic of gender identity; (3) the Appellant was trained on the District's policies, rules, and procedures, including IFAA-R (Instructional Resources Selection and Acquisitions) and IKB-R (Controversial Issues); (4) the content of *My Shadow is Purple* involves a sensitive and controversial topic as covered by IFAA-R and IKB-R; and (5) the Appellant was knowingly untruthful when she denied understanding that the topic of gender identity or gender fluidity was a sensitive or controversial topic in this community. Based on the findings, the District's policies IFAA-R and IKB-R gave due notice of the conduct for which the Appellant was terminated.

The Appellant relies on two recent State Board decisions where local board policies were deemed to be unconstitutionally vague. In *S.W. v. Henry Cnty. Bd. of Educ*., Case No. 2023-20 (Ga. SBE, Mar. 2023), a student challenged a local board policy that prohibited terroristic threats. The policy defined "terroristic threat," in part, as "any communication that could be perceived as a threat by a school administrator." In determining that the policy was unconstitutionally vague, the State Board found that the policy was "subject to the individual sensibilities and perceptions of each individual administrator. A student cannot comport their behavior to avoid an individual administrator's perception of misconduct." Similarly, in *Z.H. v. Murray Cnty. Bd. of Educ*., Case No. 2020-18 (Ga. SBE, Mar. 2020), the State Board found that a policy that prohibits a schoolwide threat or intimidation was unconstitutionally vague where it "failed to clearly articulate the prohibited conduct, rendering the policy unconstitutionally vague." *Id*. While the State Board found that the school district's policies in *S.W.* and *Z.H.* were unconstitutionally vague, in the instant case, the District's policies are sufficiently clear such that a person of ordinary intelligence could conform her conduct accordingly.

"[A]ll presumptions are in favor of the constitutionality of [a statute or regulation]." *Ga. Dep't of Cmty. Health v. Northside Hosp., Inc*., 295 Ga. 446, 448, 761 S.E.2d 74, 76 (2014). The fact that policies could have been drafted with more clarity and precision does not mean that they are unconstitutionally vague. *See United States v. Powell*, 423 U.S. 87, 94 (1975). Moreover, "'mathematical certainty' is not necessary." *Dorsey v. State*, 212 Ga. App. 830, 831, 442 S.E.2d 922, 923 (1994). Here, IFAA-R (Instructional Resources Selection and Acquisitions) and IKB-R (Controversial Issues) provide notice sufficient for a person of ordinary intelligence to conform her conduct to the policies, and the policies provide sufficient guidelines so that the policy

provisions are not susceptible to arbitrary and discriminatory enforcement. Accordingly, the State Board finds that IFAA-R and IKB-R are not unconstitutionally vague.

2. Notice

The Appellant argues that notice was inadequate because the District relied upon unlawfully vague policies in its charge letter in violation of the Fair Dismissal Act ("FDA") and her right to due process. The Local Board counters that the charge letter satisfied the statutory notice requirements and that District policies, IFAA-R and IKB-R, pass constitutional muster.

The statutory notice requirements under the FDA provide:

> **Notice.** Before the discharge or suspension of a teacher, administrator, or other employee having a contract of employment for a definite term, written notice of the charges shall be given at least ten days before the date set for hearing and shall state:
> (1) The cause or causes for his or her discharge, suspension, or demotion in sufficient detail to enable him or her fairly to show any error that may exist therein;
> (2) The names of the known witnesses and a concise summary of the evidence to be used against him or her. The names of new witnesses shall be given as soon as practicable;
> (3) The time and place where the hearing thereon will be held; and
> (4) That the charged teacher or other person, upon request, shall be furnished with compulsory process or subpoena legally requiring the attendance of witnesses and the production of documents and other papers as provided by law.

O.C.G.A. § 20-2-940(b).

"Under the terms of the Fair Dismissal Act, O.C.G.A. § 20-2-940 *et seq*., the employee is entitled to **notice**, an opportunity for a full hearing, compulsory process and representation by counsel…. Such procedures, followed here, provide all the due process that is constitutionally required." *Sharpley v. Davis*, 786 F.2d 1109, 1112 (11th Cir. 1986). *See generally, Kremer v. Chem. Constr. Corp*. 456 U.S. 461, 483-485 (1982).

The Appellant does not dispute the timeliness of the charge letter, the statement of the cause(s) for the discharge, the list of names of known witnesses, the concise summary of the evidence, or the time and place of the hearing. Instead, the Appellant argues that District policies, IFAA-R and IKB-R, are unlawfully vague, such that she could not prepare an adequate defense. The State Board has already rejected the Appellant's vagueness argument in Section IV.A.1 of this decision. Therefore, the State Board finds that the Appellant's argument that notice was inadequate on the basis of vagueness is without merit.

Further, as to the issue of notice, this Board noted in *Nigil Smith v. Atlanta Pub. Sch. Sys*., Case No. 2011-26 (Ga. SBE, Jan. 2011):

> "An essential principle of due process is that a deprivation of life, liberty, or property 'be preceded by notice and opportunity for hearing appropriate to the nature of the case.'" *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542, 105 S. Ct. 1487 (1985), *quoting Mullane v. Central Hanover Bank & Trust Co*., 339 U.S. 306, 313 (1950). "[T]he root requirement" of the Due Process Clause [is] 'that an individual be given an opportunity for a hearing before he is deprived of any significant property interest.'" *Loudermill*, 470 U.S. at 542, *quoting Boddie v. Connecticut*, 401 U.S. 371, 379 (1971). Thus, "[t]he fundamental idea of due process is notice and an opportunity to be heard." *Swafford v. Dade County Bd. of Commissioners*, 266 Ga. 646, 647 (1996).

With regard to the adequacy of notice, "[t]he test to be applied is whether the notice permits the person charged to establish a defense without the benefit of any discovery." *Haire v. Talbot Cnty. Bd. of Educ*., Case No. 1993-12 (Ga. SBE, Aug. 1993).

In this instance, the District sought to terminate the Appellant's contract of employment for insubordination, willful neglect of duties, and any other good and sufficient cause pursuant to O.C.G.A. §§ 20-2-940(a)(2), (a)(3), and (a)(8). The termination hearing took place over the course of two days. The Appellant's attorney conducted a thorough and sifting cross-examination of the District's witnesses and presented her case-in-chief, including witness testimony and the presentation of documentary evidence. The Appellant's defense successfully defeated the District's charge of insubordination and further persuaded the Tribunal that her contract should not be terminated. Accordingly, the State Board finds that notice was sufficient such that the Appellant could mount an adequate defense. The State Board further finds that the notice requirements of O.C.G.A. § 20-2-940(b) were satisfied.

The Appellant further argues that the charge letter "did not explain the grounds for the conclusion that *My Shadow is Purple* is about 'gender identity/fluidity' or the standards by which the District measured the book's appropriateness." The Local Board responds that the charge letter refers to the description on the book, stating that the book "considers gender beyond binary in a vibrant spectrum of color." The Local Board also asserts that the FDA does not require the District to articulate the standards by which it measured the book's appropriateness, and that the Appellant has cited no authority to support her position. The Local Board's argument is supported by prior State Board decisions. *See Goode v. Atlanta City Bd. of Educ*., Case No. 2005-07 (Ga. SBE, Jan. 2005) ("notice does not have to contain specific dates, times, places, and people involved when the teacher has been previously warned during conferences about improper actions"); *Smith v. Bryan Cnty. Bd. of Educ.*, Case No. 1987-24 (Ga. SBE, 1987) ("While it is important that charges be drawn as specifically as possible, nonrenewal proceedings are administrative and not criminal, and, therefore, do not require the specificity of a criminal proceeding.").

The State Board agrees with the Local Board's position. The Appellant's argument lacks merit.

Finally, the Appellant argues that she was denied the opportunity to mount an adequate defense against the "parade of conflicting testimony from the District's witnesses opining about

their personal definitions of 'inappropriate,' or 'controversial,' or 'divisive,' or 'sensitive'" because their opinions were not based on any objective criterion in the District's policies.

The FDA does not require the District's witnesses to present consistent testimony. The Appellant was given the opportunity to cross-examine the witnesses, impeach their credibility, and highlight any inconsistencies in their testimony. Ultimately, "[t]he issue of credibility has to be left with the fact-finder, and is not a proper concern of a reviewing body." *Ward v. Atlanta Public Sch. Bd. of Educ*., 1996-41 (Ga. SBE, Nov. 1996).

3. <u>Exculpatory Evidence</u>

The Appellant argues that the District failed to produce exculpatory evidence, including a copy of a photograph contradicting the District's assertion that she did not teach math on the day in question and all records and recordings of the students who were interviewed. The District responds that there is no discovery under the FDA, and that the Appellant failed to utilize the subpoena process to compel the production of the District's investigative file, which contained the interview recordings.

"The Fair Dismissal Act does not provide for discovery." *Standifer v. Atlanta Indep. Sch. Sys*., Case No. 2013-13 (Ga. SBE, Jan. 2013); *see also*, *Harris v. Atlanta Indep. Sch. Sys*., Case No. 2013-10 (Ga. SBE, Jan. 2013). However, pursuant to the FDA, the Appellant "shall be entitled to have subpoenas or other compulsory process issued for attendance of witnesses and the production of documents and other evidence." O.C.G.A. § 20-2-940(d). The Appellant has not asserted that she subpoenaed documents that were not produced. In the absence of a subpoena or other compulsory process, there was no requirement that the District produce any documents, including exculpatory evidence. The Appellant's argument lacks merit.

Further, the photograph to which the Appellant refers was provided to the District by the Appellant during the District's investigation. Accordingly, the Appellant already had it. Nevertheless, the District provided the Appellant with another copy at the hearing.

4. <u>Predetermined Outcome</u>

The Appellant argues that the Local Board's decision to terminate her employment contract was a predetermined outcome. Specifically, the Appellant contends that the Local Board rejected the Tribunal's recommendation and, without explanation, terminated her employment contract without following the District's progressive discipline policies. The Local Board counters that the Appellant has cited no record evidence to support her contention.

The FDA provides that "[t]he hearing shall be conducted before the local board, or the local board may designate a tribunal…to conduct the hearing and submit its findings and recommendations to the local board for its decision thereon." O.C.G.A. § 20-2-940(e)(1). In this instance, the Local Board designated a Tribunal to conduct the hearing and serve as the fact-finder. The Tribunal made findings of fact and a recommendation that the Appellant's employment contract not be terminated. The Tribunal did not recommend an alternative sanction. The State Board has previously held that "a local board of education does not need to follow the

recommendation of a hearing tribunal if the facts found by the hearing tribunal support the decision of the local board." *Griffith v. DeKalb Cnty. Bd. of* Educ., Case No. 2020-35 (Ga. SBE, Oct. 2020) (quoting *Balthrop v. Bd. of Pub. Educ. for the City of Savannah. et. al*., Case No. 1983-20 (Ga. SBE, 1983). "The State Board of Education has also decided that the basic findings of the ... tribunal 'are binding on a local board of education, but the determination of whether the findings support the charges is a decision which must be made by the local board of education ....'" *Griffith v. DeKalb Cnty. Bd. of* Educ., Case No. 2020-35 (Ga. SBE, Oct. 2020) (citation omitted).

With regard to the Appellant's assertion that the Local Board rejected the Tribunal's recommendation and terminated her employment without explanation, this Board in *Poland v. Cook Cnty. Bd. of Educ*., Case No. 1977-4 (Ga. SBE, June 1977) held.

> While it may have been desirable for the Local Board to have set forth its reasons for the termination vote, there was no requirement that this be done. The failure to list the reasons or hold an open discussion . . . did not deprive Appellant of any due process rights. The findings of fact were obtained in a hearing before a fair and impartial tribunal and the Local Board had the power and authority to determine the disciplinary action to be taken under the facts established at the hearing.

Similarly, in this instance, the Appellant was given a hearing before a fair and impartial Tribunal.[7] The Local Board reviewed and adopted the Tribunal's findings of fact; however, it rejected the Tribunal's recommendation regarding the Appellant's employment contract. The Local Board terminated the Appellant's employment contract for willful neglect of duty and other good and sufficient cause. It was within the Local Board's authority to do so.

The Appellant further asserts that the Local Board's members did not attend the hearing and were not given sufficient time to review the record before reaching its decision to terminate the Appellant's employment.

Pursuant to the FDA, the Local Board was authorized to designate a tribunal to conduct the hearing and submit findings and recommendations to the Local Board. *See* O.C.G.A. § 20-2-940(e)(1). Accordingly, the attendance of the members of the Local Board was not required or necessary. The Local Board reviewed and adopted the Tribunal's findings of fact. "[T]he Fair Dismissal Act does not require the Local Board to review the hearing transcript." *Neely v. Atlanta Indep. Sch. System*, Case No. 2012-75 (Ga. SBE, Jan. 2013). The Appellant's arguments lack merit.

The State Board finds the Local Board's decision was supported by the findings of fact made by the Tribunal and adopted by the Local Board. The Local Board's decision was not an abuse of discretion, nor was it arbitrary and capricious.

C. Record Evidence

The Appellant contends that the record does not support the Local Board's decision to terminate her employment contract on the bases of willful misconduct and other good and

[7] At the inception of the FDA hearing, the Appellant was given an opportunity to voir dire the Tribunal. The Appellant raised no objection or concern as to the fairness or impartiality of the Tribunal members.

sufficient cause. Accordingly, the Appellant asserts that the Local Board's decision is arbitrary and capricious and an abuse of discretion. The Local Board counters that the record supports the Local Board's decision to terminate the Appellant's employment contract.

Pursuant to the FDA, the District had the burden of proof at the hearing. O.C.G.A. § 20-2-940(e)(4). The standard of review for this appeal is the "any evidence" rule. Thus, if there is any evidence to support the Local Board's decision, this Board must affirm it. *See Ransum v. Chattooga Cnty. Bd. of Educ.*, 144 Ga. App. 783, 242 S.E.2d 374 (1978). This Board will not substitute its judgment for that of the Local Board unless there is clear evidence that the Local Board's actions were arbitrary and capricious. *Dukes-Walton v. Atlanta Indep. Sch. Sys*., 336 Ga. App. 175, 784 S.E.2d 37 (2016); *King v. Worth Cnty. Bd. of Educ.*, 324 Ga. App. 208, 749 S.E.2d 791 (2013).

1. <u>Willful Neglect of Duties</u>

A willful neglect of duty pursuant to O.C.G.A. § 20-2-940(e)(3) is "a flagrant act or omission, an intentional violation of a known rule or policy, or a continuous course of reprehensible conduct. Under either of these interpretations, 'willfulness' requires a showing of more than mere negligence." *Terry v. Houston Cnty. Bd. of Educ.*, 178 Ga. App. 296, 299, 342 S.E.2d 774, 776 (1986).

The Appellant asserts that no evidence or findings of fact support the Local Board's decision that she engaged in a flagrant act or omission, intentionally violated a known rule or policy, or engaged in a continuous course of reprehensible conduct, such that the Appellant's employment contract should be terminated.

In prior decisions, the State Board has held that "willful neglect of duties exists if Appellant knew, or should have known, what her obligations were pursuant to the Local Board's policy." *Scarborough v. Bibb Cnty. Bd. of Educ.*, Case No. 2011-17 (Ga. SBE, Nov. 2010). In *Scarborough*, a school counselor agreed to chaperone the female students on a school-related trip to Florida. One night, the counselor attended a Cirque du Soliel show, leaving seventeen students unsupervised. Some of the students drank alcohol and engaged in sexual activity, and one student alleged that she was raped. The local board terminated the counselor's employment contract for willful neglect of duty. In upholding the local board's decision, the State Board explained that "the record shows that Appellant knew or should have known that she should not leave students unsupervised. Moreover, Appellant made the conscious decision to leave the students unsupervised, which was an intentional decision and not mere negligence…. Appellant's conscious decision is sufficient to constitute a willful act. Thus, the record contains admissible evidence supporting the decision of the Local Board." *See also, Clemmons v. Chattooga Cnty. Bd. of Educ*., Case No. 1998-27 (Ga. SBE, Sept. 1998); *Maria Beal-Parker v. DeKalb County Bd. of Educ*., Case No. 2008-17 (Ga. SBE, Feb. 2008); *Mahone v. Clayton County Bd. of Educ*., Case No. 2010-77 (Ga. SBE, July 2010).

In this instance, as to what the Appellant knew or should have known, the findings of fact show that the Appellant was knowingly untruthful when she denied understanding that the topic of gender identity or gender fluidity was a sensitive or controversial topic in this community, that

the content of *My Shadow is Purple* involves a sensitive and controversial topic as covered by IFAA-R and IKB-R, that the Appellant was trained on the District's policies, that a reasonable educator exercising good professional judgment should have known that reading *My Shadow is Purple* to a 5th grade class in the District is not appropriate, and that the Appellant should have communicated with local school administration for approval. Accordingly, the evidence shows that the Appellant knew or should have known that reading *My Shadow is Purple* was a sensitive and controversial topic as covered by District policies and that reading the book to her students was not appropriate. Thus, the record contains admissible evidence supporting the decision of the Local to terminate Appellant's employment contract for willful neglect of duties in violation of O.C.G.A. § 20-2-940(a)(3).[8]

2. <u>Other Good and Sufficient Cause</u>

The Appellant argues that the record does not support a finding that there was other good and sufficient cause to terminate her employment contract. Citing *Cooper v. Atlanta City Bd. of Educ.*, Case No. 2005-08 (Ga. SBE, Nov. 2004), the Appellant asserts that any other good and sufficient cause "is limited to actions taken (or not taken) by an employee that adversely impact on the employee's ability to be effective. The phrase was not included to cover every circumstance that a local board (or administration) might grasp as a reason for its action." *Id*.

In the instant case, the Tribunal rejected the proposed finding that the Appellant's actions adversely affected her ability to be effective as a teacher in the District. Accordingly, the record does not support a finding that the actions taken (or not taken) by the Appellant adversely affected her ability to be effective. Therefore, "other good and sufficient cause" cannot be established on that basis.

Further, the Tribunal found that the Appellant's actions caused the District to reasonably lose confidence in her ability to continue as an educator within the Due West Community. In *Atlanta Indep. Sch. Sys. v. Wardlow*, 336 Ga. App. 424, 426-428, 784 S.E.2d 799, 801-802 (2016) and *Dukes-Walton v. Atlanta Indep. Sch. Sys*., 336 Ga. App. 175, 182, 784 S.E.2d 37, 44 (2016), the court of appeals held that a school district's loss of confidence in an educator or administrator was sufficient to establish other good and sufficient cause for termination under the FDA. The Appellant attempts to factually distinguish *Wardlow* and *Dukes-Walton* on the basis that they involved "moral turpitude, cheating, and criminal conduct" arising out of the Atlanta Public Schools CRCT cheating scandal. However, the Appellant has not shown where the court in *Wardlow* or *Dukes-Walton* limited the application of loss of confidence to specific behaviors when determining whether other good and sufficient cause under the FDA was established. Therefore, the State Board finds that District's loss of confidence in the Appellant's ability to continue as an

[8] The Local Board also argues that the Appellant should be terminated for willful neglect of duties because she did not make reasonable efforts to comply with District policies, directives from her principal, and the PSC Code of Ethics. The State Board does not find this argument persuasive because the findings of fact do not address whether the Appellant made reasonable efforts to comply.

educator within the Due West Community amounts to good and sufficient cause to terminate her employment contract. The Appellant's argument to the contrary lacks merit.[9]

The Appellant contends that the charge letter and the District's hearing testimony[10] show that the Appellant's disagreement over policy interpretation was a primary basis to terminate her. The portion of the charge letter at issue provides:

> You failed to acknowledge that reading this book and implementing this lesson in a public elementary school fifth grade classroom environment was inappropriate, and you refused to acknowledge that the book and lesson addressed gender identity. You maintain that this book is simply about inclusiveness, despite the fact that the book's own description identifies the story as considering "gender beyond binary." Your unwillingness to acknowledge that your conduct was inappropriate and/or the actual topic of this book has further exacerbated the situation, causing the District to lose confidence in your ability to exercise appropriate judgment as a teacher.

In that regard, the Appellant asserts that her denial of the allegations and charges against her cannot constitute "any other good and sufficient cause" and to use the Appellant's denial of the charges as a basis for dismissal violates her right to contest the charges under the FDA.

Based on the findings of fact, the District reasonably lost confidence in the Appellant for reasons, including, the Appellant's poor judgment in not recognizing that the book addressed gender identity, the inappropriateness of the topic for elementary school students, the Appellant's implementation of the lesson without advance notice to the administration and the students' parents, and the Appellant's lack of judgment. The State Board does not find that the District improperly penalized the Appellant on the basis that she disagreed with the charges and allegations against her.

Additionally, the Local Board argues that the standard for other good and sufficient cause is satisfied where an educator violates local board's policy. The Local Board offers *Omowale v. Clayton Cnty. Bd. of Educ*., Case No. 2017-33 (Ga. SBE, June 2017) and *Reynolds v. Paulding Cnty. Bd. of Educ*., Case No. 2016-13 (Ga. SBE, Mar. 2016) to support its position. In *Omowale*,

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[9] The Local Board disagrees with the Appellant's argument that loss of confidence does not support a finding of other good and sufficient cause to terminate the Appellant's employment. The Local Board relies on *Freeman v. Dooly Cnty. Bd. of Educ*., Case No. 2014-13 (Ga. SBE, Dec. 2013), *Burks v. DeKalb Cnty. Bd. of Educ*., Case No. 2014-15 (Ga. SBE, Jan. 2014), and *Reynolds v. Paulding Cnty. Bd. of Educ*., Case No. 2016-13 (Ga. SBE, Mar. 2016). In *Freeman*, the non-renewal of a counselor's employment contract was based in part on the principal's lack of confidence in her; however, there is no indication that the action was taken against the counselor for other good and sufficient cause pursuant to O.C.G.A. §20-2-940(a)(8). The State Board in *Burks* found good and sufficient cause based on the ineffectiveness of the educator. While not specifically directed toward other good and sufficient cause pursuant to O.C.G.A. § 20-2-940(a)(8), this Board noted that it previously "upheld the dismissal of employees where the Local Board lost confidence in the employee based upon the PSC 'probable cause' recommendation" and accordingly upheld the non-renewal of Burks' contract. In *Reynolds*, the State Board found that the teacher's violation of the Code of Ethics for Educators, the principal's loss of confidence in the teacher, and other improper conduct by the teacher were sufficient to establish insubordination, willful neglect of duties, immorality, and other good and sufficient cause.

[10] The Appellant does not specify the testimony to which she refers. It is not this Board's responsibility to cull the record on behalf of the Appellant to find the pertinent testimony. *See Henderson v. State*, 304 Ga. 733, 739, 822 S.E.2d 228, 235 (2018).

the State Board found that a teacher's violation of a local board's electronic communications policy amounted to "other good and sufficient cause." In *Reynolds*, the State Board held that "other good and sufficient cause" can be established by showing that an educator violated the Code of Ethics for Educators.

Similarly, here the Tribunal found that the Appellant violated IFAA-R (Instructional Resources Selection and Acquisitions), IKB-R (Controversial Issues), and PSC Code of Ethics, Standard 9: Professional Conduct. Accordingly, consistent with prior State Board decisions and Georgia case law, the Appellant's violation of District policies is sufficient evidence to support the Local Board's decision to terminate the Appellant's employment contract for other good and sufficient cause.

V. CONCLUSION

For the foregoing reasons, the State Board **AFFIRMS** the decision of the Local Board.

This 22nd day of February, 2024.

MATT W. DONALDSON
VICE CHAIR FOR APPEALS