

STATE BOARD OF EDUCATION

STATE OF GEORGIA

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| CYNDI COLEMAN, | : | |
| | : | |
| Appellant, | : | |
| | : | CASE NO. 1989-3 |
| v. | : | |
| | : | DECISION |
| PAULDING COUNTY | : | |
| BOARD OF EDUCATION, | : | |
| | : | |
| Appellee. | : | |

PART I

SUMMARY

This is an appeal by Cyndi Coleman (“Appellant”), a substitute bus driver, from a decision by the Paulding County Board of Education (“Local Board”) not to change its decision to grant a bus route to another bus driver rather than to Appellant. The appeal was not timely filed and, therefore, is dismissed.

PART II

BACKGROUND

At the beginning of the 1987 school year, the Local Board changed the attendance zones of a new school in order to reduce the number of students attending the school. In connection with the change, the Local Board also changed some bus routes and reassigned routes among the bus drivers.

The Local Board has a policy that permits the most senior substitute bus driver in a district to assume the next available permanent position within the district. As a result of the timing of the bus route changes, one senior substitute bus driver was assigned to a route in another district rather than to the permanent position that became available within the driver’s

district. This substitute driver requested the Local Board to consider her situation.

The substitute bus driver appeared before the Local Board on October 13, 1987, and explained her situation to the Local Board members. The Local Board then voted to make an exception in its assignment policy by granting the substitute driver the next available route that became open within a reasonable distance from the driver's residence. Shortly thereafter, another bus route came open that was reasonably close to the driver's residence and it was granted to the substitute driver.

Appellant, however, felt that she should have been awarded the route, and she appeared before the Local Board on October 26, 1987 to make her request. She argued that the Local Board was violating its own policy and could not correct one error by committing another. The Local Board voted not to change its previous decision. On March 9, 1988, Appellant notified the Local Superintendent that she wanted to appeal the Local Board's decision. Appellant's appeal was submitted to the State Board of Education on January 19, 1989.

PART III

DISCUSSION

Appellant claims on appeal that the Local Board violated its rule of granting bus routes to the senior substitute driver within a district when it awarded a route to another bus driver instead of awarding it to her. Regardless, however, of the merits of Appellant's claim, her appeal must be dismissed.

O.C.G.A. § 20-2-1160 permits an appeal to the State Board of Education from a decision "on a contested issue after a hearing", but the appeal has to be filed with the local school superintendent within 30 days of the decision of the local board. In the instant case, the Local Board decided on October 26, 1987 not to reconsider its initial decision. Appellant did not notify

the Local Superintendent until March 9, 1988 that she wanted to appeal the decision. The appeal, therefore, was not timely.

Appellant also claims that her delay in filing an appeal was the result of attempting to obtain a hearing before the Local Board where she would be permitted to present evidence, but the Local Board would not grant her an evidentiary hearing. The thrust of Appellant's claim is her desire for the State Board of Education to order the Local Board to conduct an evidentiary hearing. In other words, she claims her appeal was not untimely because a hearing has not been held. O.C.G.A. § 20-2-1160, however, restricts the State Board of Education's jurisdiction to those situations where a hearing has been conducted; in the absence of a hearing, the State Board of Education does not have jurisdiction to consider the matter. Thus, even under Appellant's alternate argument, the appeal must be dismissed.

PART IV

DECISION

Based upon the foregoing, the record submitted, and the briefs and arguments of the parties, it is clear that Appellant's appeal is untimely. The appeal, therefore, is

DISMISSED

This 13th day of April, 1989.

John M. Taylor
Vice Chairman For Appeals