

STATE BOARD OF EDUCATION
STATE OF GEORGIA

IN RE: DEBORAH MORRIS,

Petitioner,

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CASE NO. 1989-22

ORDER

THE STATE BOARD OF EDUCATION, after due consideration of the record submitted, the recommendation of the Special Master, and after a vote in open meeting,

DETERMINES AND ORDERS, that the State Board of Education adopt the Special Master's findings of facts, conclusions of law, and the recommendation, and hereby denies Petitioner's request. Mr. Sears and Ms. Baranco were not present.

This 9th day of November, 1989.

John M. Taylor
Vice Chairman For Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

IN RE: DEBORAH MORRIS,

Petitioner,

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CASE NO. 1989-2

**RECOMMENDATION OF
SPECIAL MASTER**

PART I

SUMMARY

This is a petition by Deborah Morris (“Petitioner”) to permit her to have another Teacher Performance Assessment Instrument (“TPAI”) evaluation because she did not receive adequate assistance in preparing her portfolio. The Georgia Department of Education has recommended that Petitioner not be granted another evaluation because the evaluations were conducted according to established procedures and there are no mitigating circumstances. The Special Master recommends denial of Petitioner’s request.

PART II

FACTUAL BACKGROUND

Petitioner is a health and physical education teacher who has taught for three years. She participated in six assessments and obtained passing scores on all but Competency I, “Plans Instruction to Achieve Selected Objectives”, and Competency II, “Obtains Information About the Needs and Progress of Learners”. Both of these competencies are primarily judged on the submission of a portfolio covering the lessons to be observed. In her six evaluations, 38% of Petitioner’s scores were at the minimum level for Competency I, and 22% of her scores were at the minimum level for Competency II.

Petitioner filed a request for a hearing with the Department of Education to ask for the opportunity to undergo another assessment. A hearing was held before a Department hearing officer.

At the hearing, Petitioner testified that she had received conflicting and contradictory information from several people concerning the preparation of her portfolio for the sixth assessment. Petitioner also presented three affidavits of three other teachers. One affidavit was from Petitioner's instructional leader, a trained data collector, who said that Petitioner received several different answers on how to prepare her portfolio, and that Petitioner was an excellent teacher. Another teacher, with 26 years of experience, stated that Petitioner knew her subject matter and had been frustrated and confused by the information she received concerning the preparation of her portfolio. The third affidavit was from a member of her teaching team, who said that Petitioner's portfolios were good.

The Department hearing officer ruled that the assessments had been properly made, and Petitioner should not have another assessment. Petitioner then filed this appeal to the State Board of Education.

PART III

DISCUSSION

In reviewing petitions concerning the TPAI, the State Board of Education has original jurisdiction rather than appellate jurisdiction. It is thus not bound either by the decision of a department hearing officer or a special master's recommendation.

In this case, Petitioner claims that the TPAI is invalid because the rules and regulations relating to it were not promulgated in accordance with the requirements of the Georgia Administrative Procedures Act. See, *Kitchens v. State Board of Education*, Case No. D-54773 (Fulton Cnty. Sup. Ct., 1988) (on appeal). The State Board of Education has taken the position

that the regulations concerning the TPAI were properly adopted. The Special Master, therefore, concludes that Petitioner's challenge does not constitute a basis for granting another assessment.

Petitioner next claims that she should be granted another assessment opportunity because she received conflicting instructions on how she should prepare her portfolio. The Department of Education argues that teachers are individually responsible for their own portfolios, and Petitioner has consistently shown an inability to plan over six assessments.

Teachers are given three years and six opportunities to establish that they are functioning at the barest minimum acceptable level of competency. Although Petitioner may have been confused by the advice she received, the source of her advice is not the responsibility of the Department and does not indicate that the assessment was improperly made. Appellant's confusion also does not establish that she received improper advice. Additionally, Petitioner's consistent failure to achieve minimum acceptable levels of competency indicates that another assessment would not aid Petitioner. The Special Master, therefore, concludes that the fact that Petitioner received advice that she considered confusing does not establish that she was unfairly evaluated.

PART IV

RECOMMENDATION

Based upon the foregoing, the record presented, and the briefs and arguments submitted, the Special Master is of the opinion that Petitioner has not demonstrated any valid reason for being permitted to undergo another assessment. The Special Master, therefore, recommends that Petitioner's request be denied.

This 4th day of November, 1989.

L. O. Buckland
Special Master

