

STATE BOARD OF EDUCATION

STATE OF GEORGIA

IN RE: MARY JANE LEE,
Petitioner,

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CASE NO. 1989-26

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

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**RECOMMENDATION OF
SPECIAL MASTER**

PART I

SUMMARY

This is a petition by Mary Jane Lee (“Petitioner”) to permit her to have another Teacher Performance Assessment Instrument (“TPAI”) evaluation. Petitioner waived her third assessment and challenges the validity of the last assessment. 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 special education teacher who has taught for three years. She has failed to obtain minimum scores on three competencies: Competency I – “Plans Instructions to Achieve Selected Objective”; Competency III

– “Demonstrates Acceptable Written and Oral Expression and Knowledge of Subject”, and Competency VI – “Demonstrates Appropriate Instructional Methods.” On the remaining five competencies, Appellant has received four scores of 100% and one score of 75%. Petitioner

waived her third assessment following the death of her son.

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 presented four affidavits. One affidavit was from the Chairperson of Petitioner's special education department, who stated that Petitioner was very successful at preparing and presenting lessons and in motivating her students, and that Petitioner was a good communicator. Another affidavit was from a trained data collector whose classroom was next to Petitioner's. The data collector's affidavit stated that Petitioner had good communication skills and exhibited good classroom management. The other two affidavits were from teachers with twenty-five and twenty-seven years of experience. Both of these affidavits stated that Petitioner would make a very good or excellent teacher. Petitioner was also offered a new contract for the 1989-1990 school year, but is unable to teach because her certificate lapsed in August, 1989. The Department hearing officer ruled that the assessments had been properly made, and Petitioner should not have another assessment. Petitioner then filed this petition with 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 the last assessment was improperly administered and the assessments were subjectively rated, thus producing results that are unfair, arbitrary, and in violation of due process. There was no evidence presented concerning this contention except the normally seen in petitions for another assessment, but these circumstances do not establish that the assessments were improperly administered, nor that the assessment instruments measure anything other than minimum levels of competency, which Petitioner has been unable to demonstrate in over one-third of the necessary areas.

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