

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JACQUELINE KING,	:	
	:	
Appellant,	:	
	:	CASE NO. 1990-24
V.	:	
	:	DECISION
FULTON COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

Jacqueline King (“Appellant”) appeals from a decision by the Fulton County Board of Education (“Local Board”) to sustain the Local Superintendent’s decision to deny Appellant’s grievance concerning her transfer to another school and the administration’s insertion of a “letter of concern” in her personnel file. The appeal is dismissed because no issues have been presented over which the State Board of Education has jurisdiction.

Appellant was a first grade teacher at the Bethune Elementary School during the 1989-1990 school year. An incident occurred at the school that caused the administration of the Fulton County Schools to transfer Appellant to another school. The transfer did not involve the loss of any salary, prestige, or responsibility. In addition, the administration placed a letter concerning the incident in Appellant’s personnel file.

In accordance with the Local Board’s policy GAE¹ Appellant filed a complaint with her supervisor to protest her transfer and the letter in her personnel file. She claimed that the policies of the Professional Practices Commission (“PPC”) had not been followed in the investigation of the incident at Bethune Elementary. The supervisor concluded that the PPC policies were not applicable and he approved the transfer and letter. Appellant then filed an appeal to the Board of Review Panel established by Policy GAE. Appellant presented the same issues that she presented to her supervisor. The Board of Review Panel conducted a hearing and received evidence from Appellant and the administration. At the conclusion of the hearing, the Board of Review Panel also concluded that the PPC policies were not applicable and it upheld both the reassignment and the issuance of the letter. Appellant appealed to the Local Superintendent, who upheld the Board

¹ The Local Board’s Policy GAE was passed to comply with State Board of Education Policy GAE, which requires local boards of education to establish procedures so that complaints concerning the violation or misapplication of statutes, policies, rules or regulations will be heard at the lowest possible level.

of Review Panel's decision. Appellant then appealed to the Local Board. Based upon the record submitted, the Local Board upheld the Local Superintendent's decision. Appellant then appealed to the State Board of Education.

Appellant has dropped her request to be reassigned back to Bethune Elementary School, but she still requests reversal of the Local Board's decision so that the letter concerning the incident will be removed from her personnel file. Appellant maintains that the Local Board's Policy GAE does not conform to State Board of Education Policy GAE and there was insufficient evidence to support placing a letter in her personnel file.

Appellant's claim that Local Board Policy GAE does not comply with State Board of Education Policy GAE was not raised before the Local Board. Appellant has gone into considerable detail concerning the facts of the incident at Bethune Elementary and the methods of investigation that were used by the administration of the Fulton County Schools. None of these facts, however, concern the issue of whether Local Board Policy GAE complies with State Board Policy GAE. The only issues raised before the Local Board were whether the initial administrative decision should have been controlled by the PPC's policies and procedures and whether the Local Superintendent had the right to assign Appellant to a different school. Issues that have not been raised before the Local Board cannot be raised for the first time on appeal to the State Board of Education.

The second issue raised is whether there was sufficient evidence to sustain the Local Board's decision to uphold Appellant's transfer. The State Board of Education, however, does not have jurisdiction to review teacher assignments. Under the provisions of O.C.G.A. § 20-2-1160, the State Board of Education can review local board decisions that involve the construction or administration of school law. State Board Policy GAE does not expand the category of cases that can be considered by the State Board of Education. Teacher assignments and re—assignments are completely within the discretion of the local boards of education and do not involve the construction or administration of school law. See, O.C.G.A. § 20-2-943(b).

Appellant argues that O.C.G.A. § 20-2-1160(b) permits an appeal from a local board's decision without the necessity of meeting the "local controversy in reference to the construction or administration of the school law" requirement of O.C.G.A. § 20-2-1160(a). According to Appellant's view, subsection (b) provides for an appeal to the State Board of Education without the necessity of a local controversy if a local board voluntarily conducts a hearing or is required to conduct a hearing under some other statute, e.g., O.C.G.A. § 20-2-940. There is, however, nothing in the history of O.C.G.A. § 20-2-1160 to support Appellant's view. O.C.G.A. § 20-2-940 independently grants the right of appeal to the State Board of Education and only makes reference to the procedures of O.C.G.A. § 20-2-1160. Subsection (b) of O.C.G.A. § 20-2-1160 merely provides the procedures for appeals; it does not grant any additional substantive rights to appeal.

Since Appellant has not raised any issue that can be considered by the State Board of Education, this appeal is hereby

DISMISSED.

This 8th day of November, 1990.

Larry A. Foster
Vice Chairman For Appeals