

STATE OF GEORGIA

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DECISION

The Local Board contends that the issues involved do not concern the interpretation and administration of school law. As a result, the Local Board contends that the State Board of Education does not have jurisdiction to consider Appellant's appeal. O.C.G.A. § 20-2-1160 provides that local boards of education "shall constitute a tribunal for hearing and determining any matter of local controversy in reference to the construction or administration of the school law" O.C.G.A. § 20-2-1160(a). "In the absence of a question involving the administration or construction of school law, the State Board of Education does not have jurisdiction to review a local board's decision. See, Boney v. County Board of Education of Telfair County, 203 Ga. 152, 45 S.E.2d 442 (1947)" McIntosh v. Gwinnett Cnty. Bd. of Educ., Case No. 1992-33 (Ga. SBE, 3/11/93), aff'd, McIntosh v. Gwinnett Cnty. Bd. of Educ. Civ. Action No. 93-A-02927-2 (Gwinnett Sup. Ct., Jun. 10, 1993), appeal denied, McIntosh v. Gwinnett Cnty. Bd. of Educ.,

(Ga. App., Jul. 28, 1993). The Local Board conducted the hearing pursuant to the provisions of the Fair Dismissal Act, O.C.G.A. § 20-2-940 et seq., which grants employees the right to appeal to the State Board of Education “in accordance with Code Section 20-2-1160.” O.C.G.A. § 20-2-940(f).

The Fair Dismissal Act governs in situations where a local board of education seeks to terminate or suspend the contract of employment of a teacher, principal, or other employee having a contract for a definite term. O.C.G.A. § 20-2-940(a). In addition to seeking repayment of the amount paid while Appellant was on leave, the Local Superintendent sought to have Appellant suspended without pay for three days. Because Appellant was subject to suspension for three days, O.C.G.A. § 20-2-940 applied to the hearing.

The Fair Dismissal Act, however, limits the action a local board of education can take. O.C.G.A. § 20-2-943 provides that a local board of education can only (1) terminate a teacher’s contract, (2) suspend a teacher, or (3) reinstate a teacher if the teacher was temporarily relieved from duty. The Fair Dismissal Act does not allow a local board of education to withhold any money from an employee’s pay. The question then is whether the Local Board exceeded its authority by going beyond what the Fair Dismissal Act permits and requiring Appellant to repay the amounts paid to him when he claimed he was sick while he attended conferences in conjunction with another position of public trust.

In Wilner V. Fulton Cnty. Bd. of Educ., Case No. 1991-6 (Ga. SBE, Apr. 11, 1991), aff’d, Fulton County Bd. of Educ. v. Wilner, Civ. Action No. D-90210 (Fulton Sup. Ct., Jul. 2, 1991), we reversed the local board of education’s decision to discipline a teacher by transferring him to another school because O.C.G.A. § 20-2-943 limited the sanctions a local board of education can take. Wilner, however, is not applicable in the instant case because the Local Board decided against imposing any disciplinary action against Appellant, i.e., the Local Board decided not to follow the Local Superintendent’s recommendation to suspend Appellant for three days. The Local Board’s decision to withhold \$100.00 per month from Appellant’s paycheck is not a disciplinary action, but, instead, is an attempt to collect a debt. The decision thus falls outside the scope of the Fair Dismissal Act.

The Local Board’s decision to seek collection of amounts it determined were improperly paid does not involve the interpretation or administration of school law. Instead, the decision involves an administrative matter that does not differ from the actions any employer would take if the employer determined that an employee was overpaid or erroneously paid. Since the matter does not involve the interpretation or administration of school law, the State Board of Education is of the opinion it does not have jurisdiction to review the Local Board’s decision.

Based upon the foregoing, the State Board of Education is of the opinion that the collection of overpaid amounts from a teacher is an internal administrative matter that does not involve the interpretation or administration of school law and the State Board of Education lacks jurisdiction to review the Local Board’s decision to collect such overpaid amounts. Accordingly, the appeal herein is
DISMISSED.

This 14th day of July, 1994.

Mr. Williams and Mrs. King were no resent. Mr. Billingslea abstained.

Robert M. Brinson
Vice Chairman for Appeals