

STATE BOARD OF EDUCATION

STATE OF GEORGIA

OWEEN BELL,	:	
	:	
Appellant,	:	
	:	CASE NO. 1998-55
vs.	:	
	:	CASE NO. 1998-55
DECATUR COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by Oween Bell (Appellant) from a decision by the Decatur County Board of Education (Local Board) not to take any action on her grievance, which complained of sexual harassment by her principal. Appellant claims that the procedures used to process her grievance were improper and that the Local Board's findings were not supported by the evidence. The Local Board's decision is sustained.

On July 29, 1998, Appellant filed an "Employee Complaint Form" in which she charged that her principal's "improper sexual conduct and his unwelcome sexual advances have become intimidating and offensive therefore creating a hostile working environment." The Local Board provided Appellant with three levels of hearings: one by an administrator, one by the Local Superintendent, and a third by a hearing officer for the Local Board.

The administrator in the Level One hearing found that there was insufficient evidence to support the charges and that the grievance was untimely because it was filed more than ten days after the last incident of alleged harassment, which, according to Appellant's testimony, occurred on February 27, 1998.

The Local Superintendent found that the grievance was untimely because it was filed too late and there was no evidence to support the charges. The Local Board's hearing officer similarly found that there was insufficient evidence to support the charges.

On appeal to the State Board of Education, Appellant claims that the Local Board's hearing officer failed to subpoena witnesses. Appellant, however, did not raise this issue before the hearing officer and there is nothing in the record to even suggest that Appellant attempted to obtain any subpoena that the hearing officer refused to issue. The State Board of Education concludes that Appellant's claim of error by the hearing officer is without merit.

Appellant also claims that the hearing officer erred by using a preponderance of evidence standard in reviewing the evidence. Appellant's claim is based on the confused understanding that preponderance of evidence is the standard used in criminal cases. The

State Board of Education concludes that Appellant's claim that the hearing officer used the wrong standard of proof is without merit.

Appellant also makes the generalized claim that the hearing officer made improper findings of fact that were not supported by the record. Appellant, however, has not pointed out any specific error made by the hearing officer. The State Board of Education concludes there is no basis for Appellant's claim that the hearing officer made improper findings.

Appellant also claims that the Local Board improperly found that her grievance was filed too late. The Local Board's policy GAE, Complaints and grievances, specifically provides that a complaint has to be made "within ten (10) calendar days after the incident or other matter for which the complaint is filed." Policy GAE, Par. 4 (9/17/92). The Local Board, therefore, properly found that the grievance was not timely filed.

Appellant also points out various errors made during the Level One and Level Two hearings. To the extent these complaints were raised before the Local Board, Appellant has not shown any error by the Local Board. Those issues that were not raised below cannot be considered for the first time on appeal to the State Board of Education.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board did to commit any error in its review of Appellant's grievance. The Local Board's decision, therefore, is
SUSTAINED.

This 11th day of February 1999.

Larry Thompson
Vice Chairman for Appeals