

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>DAYLA L. NEWTON,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>vs.</b>	:	<b>CASE NO. 2000-20</b>
	:	
<b>FULTON COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	<b>DECISION</b>

This is an appeal by Dayla L. Newton (Appellant), a non-certified, at-will teacher's assistant, from a decision by the Fulton County Board of Education (Local Board) that denied Appellant's complaints. None of Appellant's complaints involved the administration or construction of school law. Under the provisions of O.C.G.A. § 20-2-1160, the State Board of Education does not have jurisdiction to consider Appellant's appeal. Accordingly, the appeal is dismissed.

Appellant is a teacher's assistant who is employed without a contract by the Local Board. She was reprimanded by her principal and suspended for two days. Appellant filed a grievance complaint to contest the suspension. After the initial complaint, Appellant filed four more complaints to complain about the way her original complaint and each subsequent complaint was handled during the complaint process. Some of the complaints were consolidated and a decision issued that Appellant did not have any valid complaints. The Local Board upheld the decision without a hearing and Appellant appealed to the State Board of Education.

The Local Board has a policy that provides employees with a procedure to complain about certain personnel policies in an attempt to obtain rapid resolution of employee-related problems. The procedure, however, does not permit an employee to file a complaint because of "termination, nonrenewal, demotion, suspension or reprimand of the employee." Policy GAC, Par. D4. Additionally, if a complaint comes within the scope of O.C.G.A. § 20-2-1160, an employee must elect whether to proceed under O.C.G.A. § 20-2-1160 or under Policy GAC; if the employee elects to proceed under Policy GAC, the employee waives the right to appeal to the State Board of Education under O.C.G.A. § 20-2-1160. Policy GAC, Par. E. Since the Local Board's policy does not grant Appellant any right of appeal, Appellant must look to O.C.G.A. § 20-2-1160 as the basis for any appeal to the State Board of Education.

O.C.G.A. § 20-2-1160 permits appeals to the State Board of Education from decisions by local boards of education sitting as a "tribunal for hearing and determining any matter of local controversy in reference to the construction or administration of school law...." O.C.G.A. § 20-2-1160(a). In the absence of a hearing, the State Board of Education does not

have jurisdiction to consider an appeal. *See, Boney v. County Bd. of Educ. of Telfair County*, 203 Ga. 152, 45 S.E.2d 442 (1947). In the instant case, the Local Board did not conduct a hearing, nor was it required to conduct a hearing. The State Board of Education, therefore, does not have jurisdiction to consider the appeal.

Appellant also has not raised any issue involving the administration or construction of school law, another element required by O.C.G.A. § 20-2-1160 for the State Board of Education to have jurisdiction. Instead, Appellant's claims involve matters of local employer-employee policy rather than school law. "The interpretation of local board of education policies governing non-certified employees does not involve school law; nothing in Title 20 of the Official Code of Georgia Annotated or the Rules and Regulations of the State Board of Education creates any rights or establishes any procedures that must be followed for the dismissal of non-certified personnel." *Rayford v. Burke Cnty. Bd. of Educ.*, Case No. 1993-50 (Ga. SBE, Mar. 10, 1994). Appellant's first complaint was that her principal improperly suspended her for two days. Her second complaint was that the first complaint was not processed. Appellant's third complaint was that her principal retaliated against her for filing a complaint. Her fourth complaint was that the third complaint was not timely acted upon. Her fifth complaint was that the fourth complaint was not timely acted upon. None of these complaints raises any issues involving the administration or construction of school law.

Based upon the foregoing, it is the opinion of the State Board of Education that none of the issues raised by Appellant involves the administration or construction of school law, and the Local Board's decision was issued without a hearing. The State Board of Education, therefore, lacks jurisdiction to consider Appellant's appeal. Accordingly, the appeal is hereby DISMISSED.

This \_\_\_\_\_ day of August 2000.

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Bruce Jackson  
Vice Chairman for Appeals