

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>WILLIE FERGUSON,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>vs.</b>	:	<b>CASE NO. 2008-42</b>
	:	
<b>ATLANTA CITY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	<b>DECISION</b>
<b>Appellee.</b>	:	

This is an appeal by Willie Ferguson (Appellant) from a decision by the Atlanta City Board of Education (Local Board) not to grant him an appeal from the decision of a civil service hearing officer that upheld his termination from employment as a bus mechanic. Appellant was not a certified employee, nor did he have a contract for employment. The Local Board has moved to dismiss Appellant's appeal because the State Board of Education does not have jurisdiction to review its decision. Appellant claims that jurisdiction arises under the provisions of O.C.G.A. § 20-2-1160. Appellant's appeal is dismissed.

O.C.G.A. § 20-2-1160 provides, in part:

- (a) Every ... board 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....
- (b) Any party aggrieved by a decision of the local board rendered on a contested issue after a hearing shall have the right to appeal therefrom to the State Board of Education....

O.C.G.A. § 20-2-1160 (LexisNexis, 2005).

In *Harrison v. Chattooga Cnty. Bd. of Educ.*, Case No. 1976-7 (Ga. SBE, Jul. 8, 1976), the State Board of Education held that it did not have jurisdiction to consider the appeal of a teacher who had not worked three years, although the local board had granted her a hearing, because the Fair Dismissal Act, now codified as O.C.G.A. § 20-2-940 *et seq.*, was inapplicable and there was no provision for an appeal provided by law.

In *Henderson, et al. v. Fulton Cnty. Bd. of Educ.*, Case No. 1976-17 (Ga. SBE, Jan. 13, 1977), the State Board of Education dismissed the appeal of a non-certified employee who did not have a contract because the hiring and firing of employees did not involve the administration or interpretation of school law. "The legislature has provided

for the review of local board actions only in a limited area and there is no indication that the legislature intended for every action of a local school board to be subject to review by the State Board of Education. When the interpretation and administration of school law is at issue, the State Board of Education can provide a more efficient means for the resolution of controversies on a uniform basis throughout the State. But where, as here, normal employer-employee relationships are at issue and school law is not involved, an appeal to the State Board of Education is not warranted or statutorily authorized.” *Id. See, also, Biggs v. The Bd. of Educ. of the City of Atlanta*, Case No. 1998-39 (Ga. SBE, Nov. 12, 1998) (appeal dismissed because of a lack of jurisdiction).

Appellant looks to the language in O.C.G.A. § 20-2-1160(b), which states, “any party aggrieved by the decision of the local board of education ... may appeal to the state board...”, as support for his argument that the State Board of Education is required to consider his appeal. Both subpart (a) and subpart (b) of O.C.G.A. § 20-2-1160, however, limit appeals to issues involving the administration and interpretation of school law. As pointed out in *Henderson*, above, normal employee-employer relations are not a part of school law; there is nothing in Title 20 of the Official Code of Georgia Annotated that addresses the rights of employees who do not have a contract and who are not certified. The decisions of a local board of education concerning its employee-employer relations are purely ministerial actions and do not fall within the realm of “school law”. There is nothing unique about such relations that provide the State Board of Education with any special expertise that it should review such decisions, any more than it would review the decisions of any other employer to discharge an employee.

Based upon the foregoing, it is the opinion of the State Board of Education that it does not have jurisdiction to consider an appeal concerning the discharge of a former employee who did not have a contract and did not fall within the protections of O.C.G.A. § 20-2-940. Accordingly, the appeal filed herein is hereby  
DISMISSED.

This \_\_\_\_\_ day of May 2008.

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William Bradley Bryant  
Vice Chairman for Appeals