

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

**KAREN MORRA,**

**Appellant,**

v.

**ATLANTA CITY BOARD**

**OF EDUCATION,**

**Appellee.**

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**CASE NO. 1987-6**

**DECISION**

**PART I**

**SUMMARY**

This is an appeal by Karen Morra (hereinafter “Appellant”) from a decision of the Atlanta City Board of Education (hereinafter “Local Board”) not to grant Appellant a hearing. Appellant contends she was entitled to a hearing regarding the decision of the Local Board personnel not to employ her.

**PART II**

**FACTUAL BACKGROUND**

Appellant was denied redress in the grievance procedure provided by the Atlanta City School System (hereinafter “Local System”). Appellant then appealed the denial of her grievance to the Local Board. The Local Board refused to hear Appellant and maintained that Appellant had no right to a hearing.

**PART III**

**DISCUSSION**

Appellant contends on appeal that the Local Board’s failure to grant her a hearing denied her constitutional due process rights. Additionally, Appellant contends that the State Board of

Education has failed to promulgate regulations for hearings under O.C.G.A. §20-2-1160, thus causing the situation where the Local Board has failed to provide Appellant the required hearing. Appellant requests that the State Board of Education remand the case back to the Local Board for a hearing.

The State Board of Education is empowered to hear appeals from a decision of a local board rendered on a contested issue after a hearing by the local board. O.C.G.A. §20-2-1160. In the absence of a hearing, however, the State Board of Education lacks jurisdiction to hear an appeal. Boney v. County Bd. of Ed., 203 Ga. 152 (1947); Owen v. Lonci County Bd. of Ed., 245 Ga. 647 (1980). Since there is no evidence in the record submitted that a hearing has been held by the Local Board in the instant case, the State Board of Education is without jurisdiction to entertain the appeal.

Appellant contends the State Board of Education has the authority to remand the case to the Local Board to conduct a hearing. The State Board of Education, however, is unaware of any authority which grants power to the State Board of Education to order a local board to conduct a hearing. As was stated in Trotter v. Dalton City Board of Education, Case No. 1985-4,

Appellant's remedy is to seek mandamus in the superior court, or to seek a remedy in federal court. If the law requires the Local Board to grant a hearing, the superior court will mandate that to be done. Generally, an appellant is required to exhaust all administrative remedies before seeking intervention of the courts, ArD v. Bremen Bd. of Ed., 171 Ga. App. 560 (1984) , and, in this instance, the filing of an appeal to the State Board of Education appears to be aimed at such exhaustion before mandamus is sought. While an abundance of caution may dictate the filing of an appeal, the act of filing does not confer jurisdiction on the State Board of Education. Only a proper hearing will permit jurisdiction.

The arguments, that the State Board of Education has failed to promulgate regulations for hearings and that a matter of local controversy clearly exists, are also without merit. First, the State Board of Education has promulgated State Board Policy BCAEA, which is a regulation governing the procedure for hearings before local boards and proceedings before the State Board of Education. Thus, Appellant's contention that the State Board of Education has failed to

promulgate regulations as required by O.C.G.A. § 20-2-1160 is factually incorrect. Second, Appellant has stated in her brief that there is no doubt that Appellant's complaint is a matter of local controversy in reference to the construction or administration of school law. The record shows Appellant's complaint to be that she was not reinstated as a teacher when she requested to be reinstated. While Appellant has apparently alleged that there were unconstitutional reasons for the Local Board's action, Appellant must show some facts which support such allegations in order to create a question or controversy involving school law. Without showing such facts, this case amounts to a claim that the Local Board failed to reinstate Appellant in the school she desired following an extended leave of absence. Such an action would generally be a policy decision solely within the discretion of the Local Board and the Local Board would not be required to hold a hearing. Dalton City Board of Education v. Smith, 256 Ga. 394, (1986).

#### **PART IV**

#### **DECISION**

Based upon the foregoing discussion, the record presented, the briefs of counsel, and the arguments presented, the State Board of Education concludes that no hearing occurred below and the State Board of Education lacks jurisdiction to hear the appeal.

The appeal is, therefore,

DISMISSED.

Larry Foster, Sr.  
Vice Chairman for Appeals