

STATE BOARD OF EDUCATION

STATE OF GEORGIA

TINA MACRIS GRAHAM,	:	
	:	
Appellant,	:	
	:	CASE NO. 1988-6
v.	:	
	:	
CLAYTON COUNTY BOARD	:	DECISION
	:	
OF EDUCATION,	:	
	:	
Appellee.	:	

PART I

SUMMARY

This is an appeal by Tina Macris Graham (hereinafter “Appellant”) from a decision of the Clayton County Board of Education (hereinafter “Local Board”) to withdraw Appellant’s teaching contract for the 1987-1988 school year and to terminate Appellant’s employment. No grounds for the appeal have been set forth in Appellant’s notice of appeal. The Local Board contends the appeal should be dismissed based upon the Appellant’s failure to comply with O.C.G.A. § 20-2-1160 by not filing a transcript and not setting forth “a concise statement of the reasons why the decision is complained of.”

PART II

FACTUAL BACKGROUND

Appellant filed a timely notice of appeal of the decision of the Local Board to terminate her contract for the 1987-1988 school year. Appellant failed to set forth in the notice of appeal any reasons for the appeal. Appellant further failed to provide a transcript of the hearing below and has not provided a transcript to date. The Local Board filed a motion to dismiss the appeal because the Appellant failed to set forth reasons for the appeal and because Appellant failed to provide a transcript.

Appellant, through her attorney, wrote the State Department of Education on September 24, 1987, and requested an extension of time to obtain the transcript of the hearing due to the costs and the fact that the court reporter did not have the transcript typed. Appellant's attorney alluded in that letter to a constitutional challenge to the requirement that Appellant provide, at her expense, a transcript on appeal.

On October 20, 1987, the Local Board filed a motion to dismiss the appeal. Appellant's attorney was notified that the motion could either be handled along with the appeal, when the file was completed, or it could be handled separately and ruled upon by the State Board of Education prior to ruling on the substance of the appeal but, in either event, a response to the Local Board's brief was necessary.

By letter of December 7, 1987, Appellant's attorney wrote that Appellant had taken the necessary steps to have the transcript forwarded, and that the transcript should be delivered within a week to ten days. No further response was heard from Appellant and the Local Board renewed its motion to dismiss. Appellant was then notified that the State Board of Education would consider the motion.

PART III

DISCUSSION

The Local Board contends that the State Board of Education must dismiss the appeal for failure of Appellant to meet the requirements for an appeal under O.C.G.A. §20-2-1160, which provides, in part:

The appeal shall be in writing and shall distinctly set forth the question in dispute, the decision of the local board, and a concise statement of the reasons why the decision is complained of; and the party taking the appeal shall also file with the appeal a transcript of testimony certified as true and correct by the local school superintendent. The appeal shall be filed with the superintendent within 30 days of the decision of the local board, and within ten days thereafter it shall be the duty of the superintendent to transmit a copy

of the appeal together with the transcript of evidence and proceedings, the decision of the local board, and other matters in the file relating to the appeal to the state board. The state board shall adopt regulations governing the procedure for hearings before the local board and proceedings before it.

The State Board of Education has adopted State Board of Education Policy BCAEA, which provides, in part:

Any interested person dissatisfied with any ruling rendered by a local board of education may appeal to the state board by filing in duplicate with the local superintendent a written appeal in the manner required by O.C.G.A. §20-2-1160, as amended. The appeal must distinctly set forth the questions and issues involved and state the reasons why the decision complained of is alleged to be erroneous and must be filed within 30 days of the decision complained of. If the appellant does not file with such appeal a transcript of the evidence and proceedings before the board, including all documents, he or she shall also file as part of said appeal a request that the superintendent transcribe and prepare such a transcript, in which event the superintendent may require the appellant to pay in advance the costs of such preparation....

Failure to comply with any of the provisions in these regulations relating to an appeal will be grounds for dismissal....

It is clear that, under State Board Policy BCAEA, it is within the authority of the State Board of Education to dismiss the appeal. No issues have been set forth on appeal and Appellant has not provided the transcript of appeal. No arguments have been presented in response to the Local Board's motion to dismiss. Appellant has abandoned the appeal by failing to counter the Local Board's arguments.

PART IV

DECISION

Based upon the foregoing discussion, and the motion and requests of the Local Board, the State Board of Education concludes that this appeal has been abandoned by the Appellant and should, therefore, be DISMISSED.

Mr. Foster took no part in the discussion and abstained from voting.

John M. Taylor
Vice Chairman for Appeals