STATE BOARD OF EDUCATION

STATE OF GEORGIA

ROBIN WHITAKER,	:	
	:	
Appellant,	:	
	:	
v.	:	
	:	**CASE NO. 1992-32**
	:	
CHEROKEE COUNTY	:	**DECISION**
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by Robin Whitaker ("Appellant") from a Cherokee County Board of Education ("Local Board") decision to deny Appellant any relief on her complaint filed under the provisions of O.C.G.A. § 20-2-989.5 et seq., which provides that local boards of education have to establish a complaint procedure for resolving disputes at the lowest possible level.[1] Appellant complained that her principal improperly changed the grades of two of her senior students. Because the issues raised only concern internal administrative matters, the Local Board's decision is sustained.

On June 8, 1992, Appellant filed a complaint to protest how her principal handled the grades of two of her senior students. The principal conducted a hearing with Appellant and decided that he had not violated any Local Board policies. Appellant then filed an appeal from the principal's decision. A second level hearing was held and the second level administrator upheld the principal's findings and conclusions. Appellant then appealed to the Local Board.

On August 6, 1992, the Local Board conducted a de novo hearing. The Local Board heard evidence that Appellant had given failing grades to two seniors at the end of the 1991-1992 school year. One student plagiarized a term report from an encyclopedia and received a zero grade. The second student did not complete a major essay. The principal permitted both students to prepare reports that were graded by a central office administrator who had a degree in English. As a result of the principal's intervention, both students received passing grades in Appellant's class and were allowed to graduate.

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[1] O.C.G.A § 20-2-989.5 et seq. provides for multiple hearings, beginning with the employee's immediate supervisor and culminating with a hearing before the local board of education. A final appeal can then be made to the State Board of Education under the provisions of OCGA. § 20-2-1160.

Appellant complained that the principal failed to follow Local Board Policy THE, which generally provides that the Local Board acknowledges the serious responsibility of awarding grades and that "[i]t is the Board's policy to support its professional staff in this professionally duty. The Board feels that the professional can be depended upon to make decisions in the best interest of children." Appellant claims the policy was violated because the principal did not accept the grades she assigned to the students. Appellant also complained that the principal violated Local Board Policy IHAE-R, which provides in part, that the "principal ... assumes the responsibility for adjusting the student's grades or credits when the necessity arises ...." The policy also provides that the principal is to consult with the student's teacher or refer a grade change matter to a grade adjustment advisory committee. Appellant claimed that the principal did not refer the grade changes to an advisory committee.

The Local Board decided to uphold the principal's actions and denied Appellant any relief. Appellant then filed a timely appeal to the State Board of Education.

The legislative intent of O.C.G.A. § 20-2-989.5 is to provide a method "to resolve problems at the lowest possible organizational level with a minimum of conflict and formal proceedings . ..." O.C.G.A. § 20-2-989.5(a). The statute permits appeals to the State Board of Education that are "governed by state board policy and Code Section 20-2-1160." O.C.G.A. § 20-2-989.11. Under O.C.G.A. § 20-2-1160, the State Board of Education has jurisdiction to hear appeals on decisions of local boards of education that involve "the construction or administration of the school law ...." O.C.G.A. § 20-2-1160(a).

O.C.G.A.§ 20-2-989.5 was not enacted for the purpose of having the State Board of Education engage in micro-management of local boards of education. The stated purpose is to provide a mechanism for resolving disputes at the lowest possible level. Consistent with this purpose, we will only examine whether the policy was followed or whether the local board's decision was arbitrary or capricious. Therefore, the issue to be decided in this appeal is whether the Cherokee County School System followed the complaint procedures provided by O.C.G.A. § 20-2-989.5, or whether the Local Board's decision was arbitrary or capricious.

From our review of the record, we do not find that the Cherokee County School System failed to follow the complaint procedures required under O.C.G.A. § 20-2-989.5 in any material respect. The assignment of grades and the internal organization used to assign grades are internal administrative matters that are best left to local boards of education. We conclude that the Local Board's decision was not arbitrary or capricious.

Appellant argues that the Local Board's policies governing the assignment of grades constitute school law because local boards of education have the inherent authority to adopt rules and regulations governing the operation of the public schools. Appellant then argues that the policies have the force and effect of law. From this base, Appellant then argues that the Local Board policy was violated and the violation should be corrected by the State Board of Education. We, however, do not accept Appellant's premise that the policies that flow from the authority to make policies necessarily constitute school law. The fact that a local board of education takes some authorized action does not automatically cause the action to fail within the term school law. See, Servicemaster Mat. Servs. Corp. v. Cherokee County Sch. Sirs., 257 Ga. 60, 354 S.E.2d 425

(1987) (authority to enter into a contract does not make contract dispute a local controversy in reference to the construction and administration of school law).

Based upon the foregoing, we are of the opinion that the Cherokee County School System followed the procedures required by O.C.G.A. § 20-2-989.5 et seq. and the Local Board's decision was not arbitrary or capricious. The Local Board's decision, therefore, is

SUSTAINED.

This 14th day of January, 1993.

Mrs. King and Mr. Sears were not present.

Robert M. Brinson
Vice Chairman for Appeals