

**STATE BOARD OF EDUCATION
STATE OF GEORGIA**

VIRGINIA MCINTOSH,	:	
	:	
Appellant,	:	
	:	CASE NO 1992-33
vs.	:	
	:	DECISION
	:	
GWINNETT COUNTY BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

PART I

SUMMARY

This is an appeal by Virginia McIntosh (“Appellant”) from a decision by the Gwinnett County Board of Education (“Local Board”) to deny her any relief on a grievance complaint she filed to protest her assignment as an in-school suspension teacher. The Local Board found that none of its policies were violated and Appellant’s Principal acted properly in assigning the in-school suspension duties to Appellant. Appellant claims on appeal that the Local Board’s policies concerning reduction in force and transfers were not followed by either the Principal or the Local Board, and that the Principal made the assignment to retaliate against her for filing an earlier complaint. The appeal is dismissed because the State Board of Education lacks jurisdiction.

PART II

FACTUAL BACKGROUND

During the 1991-1992 school year, the Gwinnett County School System consolidated two vocational programs into one. Appellant was a guidance counselor, a position she had held for twenty years. When the consolidation occurred, there were two guidance counselors on the staff. In May, 1992, the Principal decided to assign the in-school suspension program duties to Appellant. The Principal informed Appellant of his decision and asked her if she had any questions about the changes.

Without discussing the matter with the Principal, Appellant filed a grievance under the Local Board’s policy concerning grievances.¹ Under the grievance policy, the Principal reviewed Appellant’s complaint and decided that his decision was proper. Appellant then appealed to the Local Superintendent, who agreed with the Principal. Appellant then appealed to the Local Board.

¹ The grievance was filed before Q.C.G.A. S 20-2-989.8 became effective. O.C.G.A. S 20-2- 989.8 dictates how local grievance policies are to function.

Appellant claimed that by assigning the in-school suspension program duties to her, the Principal violated the Local Board's policies on reduction in force and transfers. The Local Board's reduction in force policy, Policy GBN, provides, in part:

In the event it becomes necessary to reduce the number of employees ... the procedures listed below shall determine the employees to be demoted or terminated ...

Policy GBN.

The Local Board's policy on lateral transfers provides:

The Board of Education has the right to make lateral transfers in personnel when it becomes necessary due to ...

1. Overstaffing within the teaching field or grade level.
2. Change in attendance areas.
3. Change in program or staffing within a program.

Policy GBNA, Part II

The Local Board found that there had not been a decrease in the number of employees and its reduction in force policy, therefore, was inapplicable to the circumstances. The Local Board also decided that its lateral transfer policy was inapplicable because Appellant was not transferred from one school to another. Finally, the Local Board found that there was no evidence of a prior complaint by Appellant. Based upon these findings, the Local Board sustained the actions of the Principal and denied Appellant any relief. Appellant filed a timely appeal to the State Board of Education.

PART III

DISCUSSION

The appeal in this case was made under the provisions of O.C.G.A. § 20-2-1160, which permits appeals to the State Board of Education when a local board of education decides a question involving the administration or construction of school law. In the absence of a question involving the administration or construction of school law, the State Board of Education does not have jurisdiction to review a local board's decision. See, *Boney v. County Board of Education of Telfair County*, 203 Ga. 152, 45 S.E.2d 442 (1947).

Appellant's appeal does not involve any question concerning the administration or construction of school law. Instead, the questions involve the internal administration of the school system, i.e., the assignment of duties to a teacher. Such issues are the province of the Local Board.

Since there are no issues involving the construction or administration of school law, the State Board of Education lacks jurisdiction to consider this appeal. Accordingly, the appeal must be dismissed.

PART IV

DECISION

Based upon the foregoing, the State Board of Education is of the opinion that the issues involved are local administrative issues and the State Board of Education does not have jurisdiction to consider the appeal. Accordingly, the appeal is hereby

DISMISSED.

This 11th of March, 1993.

Mr. Sears and Mr. Sessoms were not present.

Robert M. Brinson
Vice Chairman for Appeals