

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JOHN P. BRUCE,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2001-43
	:	
TROUP COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by John P. Bruce (Appellant) from a decision by the Troup County Board of Education (Local Board) to uphold the Local Superintendent’s decision to fire him from his position as a bus mechanic because he refused to drive a school bus. Appellant claims that he was hired with the understanding that he would not drive buses because of a medical condition, and his termination violates the Americans With Disabilities Act of 1990, 42 U.S.C. 12111 *et seq.*, and violates his right to equal protection and due process. The appeal is dismissed because the State Board of Education lacks jurisdiction to consider the appeal.

The Local Board hired Appellant as an at-will bus mechanic, i.e., he worked without the benefit of a contract of employment for a definite term. The Local Board requires mechanics to drive buses when all the bus drivers are unavailable. Appellant, however, received assurances from his supervisor when he was hired that he would not have to drive a bus because a medical condition he had made him an unsafe driver. On January 21, 2000, Appellant’s supervisor asked him to drive because several bus drivers were absent following an influenza outbreak. Appellant refused because of his prior arrangement and his fear of driving. Appellant was sick the following day and for the remainder of the month, but he did not report his sickness in accordance with the policies of his department, which required him to personally call to report his sickness. On February 2, 2000, the Local Superintendent fired Appellant. When the Local Board upheld the Local Superintendent’s decision, Appellant filed an appeal with the State Board of Education.

O.C.G.A. § 20-2-1160 permits the State Board of Education to hear appeals from decisions by local boards of education that involve a local controversy regarding the administration or interpretation of school law. The State Board of Education does not have jurisdiction to consider the appeal from a local board’s employee who works without a contract because no issue of school law exists, nor is there a matter of local controversy. *See, Dalton City Bd. of Educ. v. Smith*, 256 Ga. 394, 349 S.E.2d 458 (1986); *Meacham v. Clayton Cnty. Bd. of Educ.*, Case No. 1991-16 (Ga. SBE, Aug. 8, 1991). In the instant case, Appellant did not have a contract for a definite period. The State Board of Education, therefore, does not have jurisdiction to consider his appeal.

Although Appellant claimed that the Local Board's action violated the Americans With Disabilities Act of 1990, 42 U.S.C. 12111 *et seq.*, Appellant merely made the bare allegation and failed to make any showing of a violation. Thus, even if there was some constitutional basis for the State Board of Education to exercise jurisdiction, Appellant failed to establish any basis for reversing the Local Board's decision.

Based upon the foregoing, it is the opinion of the State Board of Education that it does not have jurisdiction to consider Appellant's appeal. The appeal, therefore, is hereby DISMISSED.

This _____ day of August 2001.

Bruce Jackson
Vice Chairman for Appeals