

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>DELORES GIBSON,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>vs.</b>	:	<b>CASE NO. 2004-12</b>
	:	
<b>ATLANTA CITY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	<b>DECISION</b>

This is an appeal by Delores Gibson (Appellant) from a decision by the Atlanta City Board of Education (Local Board) to demote her from her position of Coordinator in the Department of Professional Development to school teacher despite the recommendation of a tribunal not to demote her. The Local Board's decision is reversed.

Appellant served the Local Board as a Coordinator in the Department of Professional Development for six years without incident. On March 28, 2003, the Local Superintendent recommended Appellant's demotion to school teacher because she allegedly: (i) removed school property from the school without authorization; (ii) directed school employees to use school property for personal use; (iii) repeatedly submitted projects in an untimely manner, and (iv) displayed a rude, unprofessional and argumentative attitude towards members of her staff. Appellant asked for a hearing and a three-member tribunal, appointed by the Local Board, held a hearing on May 9, 2003. After the hearing, the tribunal prepared a comprehensive report of its findings of fact and recommendation. The tribunal found that there was no evidence to support any of the charges. Based upon the lack of evidence, the tribunal recommended against demotion.

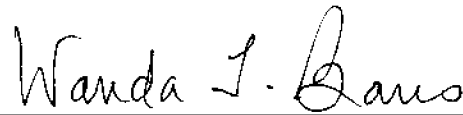
The Local Board received the tribunal's report but decided to reject it. Instead, the Local Board conducted a *de novo* review of the transcript while in executive session with both the Local Superintendent and the Local Board's attorney in attendance. In addition, Appellant was not given any notice of this meeting. Based upon its review, and without making any written findings of its own, the Local Board decided to demote Appellant. Appellant then filed an appeal to the State Board of Education.

When it appoints a hearing tribunal to conduct an evidentiary hearing, a local board of education cannot go behind the tribunal and make findings of fact that are inconsistent with the findings of fact made by the tribunal. *Balthrop v. Bd. of Public Educ. For the City of Savannah and Cnty. Of Chatham*, Case No. 1983-20 (GA. SBE, Sep. 8, 1983). In the instant case, the Local Board exceeded its authority by making findings of fact that were inconsistent with the findings made by the tribunal. The

tribunal found that the witnesses who testified against Appellant were not credible, and that there was no evidence to support any of the charges made against Appellant. In the absence of any facts to support the charges, there is no basis for the Local Board to demote Appellant. The Local Board cannot go behind the tribunal, disagree with the credibility of the witnesses, and find that there was evidence to support the charges.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board exceeded its authority and there are no facts to support the charges made against Appellant. Accordingly, the Local Board's decision is REVERSED.

This 14<sup>th</sup> day of November 2003.

A handwritten signature in cursive script that reads "Wanda T. Barrs". The signature is written in dark ink and is positioned above a horizontal line.

Wanda T. Barrs  
Chairperson - State Board of Education