

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>BARBARA BRYANT,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>vs.</b>	:	<b>CASE NO. 2005-27</b>
	:	
<b>DOUGHERTY COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	<b>DECISION</b>

This is an appeal by Barbara Bryant (Appellant) from a decision by the Dougherty County Board of Education (Local Board) to deny her grievance, which she filed because she was not selected for the position of Director of Federal Programs/School Improvement. The bulk of Appellant’s complaints are that the Local Board failed to follow its own grievance procedures. Appellant, however, has not raised any issue that involves the construction or administration of school law. Accordingly, the State Board of Education lacks jurisdiction to consider the appeal and it is therefore dismissed.

Since 2003, the Local Superintendent sought to reorganize some of the administrative staff. In March 2004, the position of Director of Federal Programs/School Improvement was announced. Appellant was one of five applicants for the position. The Local Superintendent appointed a committee to review the candidates and make a recommendation. The committee members each voted on two candidates. Appellant was not one of the top two candidates. The top two candidates were interviewed by the Local Superintendent, who then recommended one of them for the position. The individual selected by the Local Superintendent met all of the qualifications for the position.

Appellant filed a grievance and claimed she should have been selected for the position. The Local Superintendent denied the grievance because the individual selected met the qualifications for the position and because Appellant was not one of the top two people selected by the committee. Appellant then appealed to the Local Board, which scheduled a hearing.

Appellant attempted to have the Local Board issue subpoenas for witnesses to the hearing, but the Local Board ruled that it did not have the authority to issue subpoenas for a grievance hearing. At the beginning of the hearing, the Local Board ruled that Appellant had the burden of proof and required her to go first. One of the committee members agreed to testify, but refused to answer how she had ranked the five candidates. The witness then left the hearing without being required to answer the question.

Appellant sought the original notes made by the committee members but was supplied copies of the notes in which numbers were substituted for names to protect the integrity of the selection process. At the end of the hearing, the Local Board voted to uphold the Local

Superintendent's decision and deny Appellant's grievance. Appellant then filed an appeal to the State Board of Education.

On appeal, Appellant claims that she was denied due process and the hearing before the Local Board was procedurally defective. Appellant claims that the Local Board failed to maintain and provide records, that she was denied subpoenas for witnesses, that hearsay evidence was admitted, and she was denied an opportunity to examine and cross-examine witnesses. She also claims that the Local Board's decision was arbitrary and capricious and that she was the best-qualified candidate for the position.

"O.C.G.A. § 20-2-989.5 *et seq.* establishes a procedure for resolving 'problems at the lowest possible organizational level with a minimum of conflict and formal proceedings so that good morale may be maintained, effective job performance may be enhanced, and the citizens of the community may be better served.' O.C.G.A. § 20-2-989.5(a). Appeals from grievance decisions are available to the State Board of Education under the provisions of O.C.G.A. § 20-2-1160. O.C.G.A. § 20-2-989.11. An appeal under O.C.G.A. § 20-2-1160 requires a decision involving the administration or construction of school law for the State Board of Education to have jurisdiction. *See, Boney v. County Bd. of Educ. of Telfair County*, 203 Ga. 152, 45 S.E.2d 442 (1947).

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The assignment of duties to a teacher is the province of the local boards of education and not the State Board of Education. [Citations omitted] Similarly, the selection of the employees to fulfill those assignments is the province of the local boards of education and does not involve the administration or interpretation of school law." *Webb v. Bulloch Cnty. Bd. of Educ.*, Case No. 1999-28 (Ga. SBE, Aug. 12, 1999).

Appellant raised several procedural issues and claimed that the Local Board denied her due process. Appellant, however, is not entitled to due process in seeking a new position because she does not have a property interest in the new position. *See, Ellison v. DeKalb County*, 236 Ga. App. 185, 187, 511 S.E.2d 284, 286 (1999). The State Board of Education concludes that Appellant was not denied due process because of the actions taken by the Local Board in its conduct of the hearing.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board did not deny Appellant any of her due process rights and that the State Board of Education does not have jurisdiction to consider any of Appellant's claims because she has not raised any issues regarding the construction or administration of school law. Accordingly, the appeal is hereby  
DISMISSED.

This \_\_\_\_\_ day of July 2005.

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William Bradley Bryant  
Vice Chairman for Appeals