

STATE BOARD OF EDUCATION

STATE OF GEORGIA

GERALD NELSON,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2005-50
	:	
ATLANTA CITY	:	
BOARD OF EDUCATION,	:	
	:	DECISION
Appellee.	:	

This is an appeal by Gerald Nelson (Appellant) from a decision by the Atlanta City Board of Education (Local Board) not to renew his contract. The Local Board’s decision followed the State Board of Education’s decision to reverse a previous decision of the Local Board not to renew Appellant’s contract because the Local Board had not presented any evidence to support the charges against Appellant. *Nelson v. Atlanta City Board of Educ.*, Case No. 2005-18 (Ga. SBE, Feb. 10, 2005). Rather than accept the State Board of Education’s decision, the Local Board issued an “amended decision,” ostensibly to correct the errors found by the State Board of Education.

The decision by the State Board of Education on February 10, 2005, did not remand the case back to the Local Board to make corrections in the record. The State Board of Education’s decision was a final decision based upon the record presented. If the Local Board was dissatisfied with the State Board of Education’s decision, it had the option of appealing to superior court. There is, however, no provision of law that permits the Local Board to treat a reversal by the State Board of Education as a remand order to make new findings consistent with the State Board of Education’s decision. The State Board of Education’s decision, therefore, is final and constitutes the end of the matter unless an appeal is made to superior court. The Local Board’s action following the State Board of Education decision is *ultra vires* and cannot stand. Accordingly, the Local Board’s decision is hereby REVERSED.

This _____ day of July 2005.

William Bradley Bryant
Vice Chairman for Appeals