

STATE BOARD OF EDUCATION

STATE OF GEORGIA

VAN R. LAYSON, :
Appellant, :
v. : CASE NO. 1982-6
PUTNAM COUNTY BOARD :
OF EDUCATION, :
Appellee. :

O R D E R

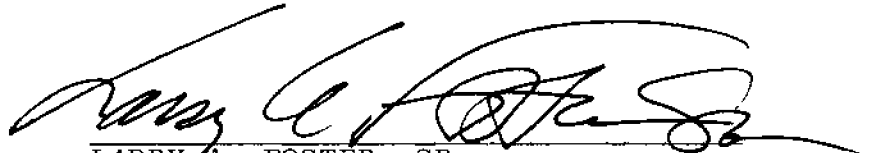
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

DETERMINES AND ORDERS, that, under the facts presented, the decision of the Putnam County Board of Education not to hold a hearing after receiving a motion for reconsideration from Appellant constituted a hearing on the issue which resulted in an adverse decision to Appellant thereby giving the State Board of Education jurisdiction under the provisions of Ga. Code Ann. §32-910; and

DETERMINES AND ORDERS, that under the facts and circumstances that existed, the Putnam County Board of Education does not have the authority under Georgia law to hire a teacher without the recommendation of Appellant; and

DETERMINES AND ORDERS, that the decision of the Putnam County Board of Education is hereby reversed.

This 12th day of August, 1982.


LARRY A. FOSTER, SR.
Vice Chairman for Appeals

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STATE OF GEORGIA

VAN R. LAYSON,	:	
	:	
Appellant,	:	CASE NO. 1982-6
	:	
PUTNAM COUNTY BOARD OF	:	REPORT OF
EDUCATION,	:	HEARING OFFICER
	:	
Appellee.	:	

This is an appeal by Van R. Layson, Superintendent of the Putnam County Schools (hereinafter "Appellant") from a decision by the Putnam County Board of Education (hereinafter "Local Board") which denied Appellant a hearing and reconsideration of its previous decision to hire a teacher who had not been recommended for employment by Appellant. The Hearing Officer recommends that the appeal be dismissed.

The primary issue in this case is whether a local board of education can hire a non-tenured teacher whose contract has not been recommended for renewal by the local superintendent. The Local Board maintains that the State Board of Education does not have jurisdiction over the matter because a hearing has not been held. See, Ga. Code Ann. §32-910. The Local Board also maintains that it has the right to renew a teacher's contract without the recommendation of the local superintendent because local boards

of education have been granted the power and authority to manage and control the local school systems.

The record shows that on March 14, 1982, Appellant submitted a list of the names of the teachers he recommended for hiring for the 1982-83 school year. The list did not contain the name of a teacher who, it appears, had not yet obtained tenure with the school system. On March 29, 1982, Appellant sent the teacher a letter stating that he had not recommended her for re-employment. The Local Board objected to Appellant's actions and, on April 14, 1982, voted to renew the teacher's contract. Appellant requested a hearing on the matter, requested reconsideration by the Local Board of its decision and refused to offer the teacher a new contract. The Local Board refused to grant a hearing and ordered Appellant to prepare a contract for the teacher. Appellant appealed to the State Board of Education on the grounds that he had the right to have a hearing under the provisions of Ga. Code Ann. §32-910, and that the Local Board was without authority to hire the teacher in the absence of his recommendation.

In Silbaugh v. Paulding County Bd. of Ed., Case No. 1981-24, the State Board of Education decided that under the Fair Dismissal Law (Georgia Code Ann. §32-2101c et seq.), the State Board of Education did not have jurisdiction to review the local board of education's decision

to renew the teaching contract of a tenured teacher. Although the State Board of Education did not accept jurisdiction in the matter, it also did not accept the Hearing Officer's premise that the local superintendent was not an aggrieved party under the provisions of Ga. Code Ann. §32-910.

The case of Boney v. County Bd. of Ed., 203 Ga. 152 (1947), held that Ga. Code Ann. §32-910 required a local board of education to make a decision on a disputed issue before the State Board of Education had any jurisdiction to review a matter. Since the jurisdiction of the State Board of Education is limited to a review of the record presented to the local board of education, the lack of a hearing and the absence of a record effectively preclude the State Board of Education from making any decision. A hearing, and the presentation of evidence, before the local board sitting as a quasi-judicial body is necessary before the State Board can assume jurisdiction. If the local board will not grant a hearing on a contested issue, an aggrieved party must seek remedies other than an appeal to the State Board of Education. The Hearing Officer, therefore, concludes that the State Board of Education is without jurisdiction in this matter since a hearing has not been held, and recommends that the appeal be dismissed.


L. O. BUCKLAND
Hearing Officer