

STATE BOARD OF EDUCATION

STATE OF GEORGIA

TARA A. ABYDOS-HARRIS,	:	
	:	
Appellant,	:	CASE NO. 2011-57
	:	
vs.	:	
	:	
ATLANTA CITY	:	
BOARD OF EDUCATION,	:	DECISION
	:	
Appellee.	:	

This is an appeal by Tara A. Abydos-Harris (Appellant) from a decision by the Atlanta City Board of Education (Local Board) to deny her any relief on two grievances she filed. One grievance concerned her transfer to another school because of changes in student population and the other concerned charges of harassment. The tribunal that heard the grievances dismissed the grievance regarding harassment as not being a grievable matter. With respect to the other grievance, the tribunal decided that Appellant’s transfer was properly made. Appellant claims that her transfer was improperly made because she was more qualified than teachers who were not transferred. Additionally, Appellant claims that her grievance concerning harassment should not have been dismissed because she has a constitutional claim. The Local Board’s decision is **SUSTAINED**.

O.C.G.A. § 20-2-989.5 *et seq.* provides for local boards of education to establish a complaint procedure “to resolve problems at the lowest possible organizational level” Specifically exempted from the complaint process are (1) personnel evaluations, (2) professional development plans, (3) job performance ratings, (4) terminations, (5) nonrenewals, (6) demotions, (7) suspensions, (8) reprimands, (9) the revocation, suspension, or denial of the certificate of any employee, and (10) any matter previously appealed under the provisions of O.C.G.A. § 20-2-1160. Pursuant to O.C.G.A. § 20-2-989.5 *et seq.*, the Local Board adopted its Policy GAE.

Local Board Policy GAE tracks the state law regarding the types of matters that are not subject to the grievance procedure. Additionally, the Local Board has a separate policy, GAEB, which covers complaints regarding sexual harassment and claims of discrimination, thus removing these claims from the processes of Policy GAE.

During the 2009-2010 school year, Appellant served as an English teacher at North Atlanta High School. During the spring and summer of 2010, the Atlanta School System (Local System) implemented a “leveling” procedure, which involved the moving of teachers from one school to another based upon the changing needs of the different schools because of changes in student enrollment. Under this process, some schools lost teachers because the student enrollment at the school dropped relative to other schools,

and some schools gained teachers because the student enrollment increased relative to the other schools.

In implementing this “leveling” procedure, the Local System listed all the teachers in a school according to their performance ranking. The listing was then divided into quintiles and the highest and lowest quintiles were excluded from consideration for transfer. The remaining 60% were then further ranked according to their seniority with those having the least seniority being at the top of the list for transfer consideration. Thus, if a school was to lose three teachers, the three teachers with the least seniority who were in the 60% category were selected for transfer to another school.

The ranking of the teachers was performed at the central office and the individual school principals did not have any input into the selection process. The principals could, however, request that a teacher not be transferred because of the needs of a particular department, but there was no requirement on the part of the principal to make such a request for any teacher.

Appellant’s ranking placed her in the group to be transferred to another school.¹ On August 31, 2010, Appellant filed a grievance to protest her selection for transfer. On October 15, 2010, Appellant filed another grievance to protest the issuance of a letter of reprimand by her new principal. Both grievances were brought before a tribunal on February 8, 2011.

Before the hearing on the two grievances began, the hearing officer ruled that the October 15, 2010, grievance was not a grievable matter under the provisions of the Local Board’s Policy GAE because the issues raised by Appellant were specifically excluded as grievable matters under Policy GAE. Consequently, there was no evidence presented to the tribunal regarding the October 15, 2010, grievance. The tribunal, however, proceeded to receive evidence regarding the August 31, 2010, grievance.

During the hearing regarding the August 31, 2010, grievance, the tribunal heard evidence regarding the procedures followed in implementing the leveling process. Appellant claimed that she should not have been selected for transfer because her credentials were better than some of the teachers who were not selected for transfer, and she had a higher performance rating than one of the English teachers who was not transferred because of an appeal filed by the principal. The tribunal decided that the transfer process was fairly implemented and that Appellant’s transfer was not improper.

The Local Board upheld the hearing officer’s decision to dismiss the October 15, 2010, grievance and upheld the tribunal’s decision that the transfer process was not improper. Appellant then filed an appeal to the State Board of Education.

With respect to Appellant’s October 15, 2010, grievance, O.C.G.A. § 20-2-989.5 *et seq.* specifically exempts complaints regarding reprimands issued to a teacher.

¹ Eleven teachers were transferred out of North Atlanta High School.

Additionally, there was no hearing regarding the October 15, 2010, grievance. In the absence of a hearing, the State Board of Education does not have any jurisdiction under the provisions of O.C.G.A. § 20-2-1160. *See, Boney v. County Bd. of Educ. of Telfair County*, 203 Ga. 152, 45 S.E.2d 442 (1947).

With respect to Appellant's August 31, 2010, grievance, Appellant attempted to show during the hearing that she should not have been transferred because she was more qualified than teachers who were not transferred and because the principal acted improperly in implementing the transfer process. The record, however, fails to support Appellant's claims.

The process implemented by the Local Board did not encompass teacher qualifications, except to the extent that a score received on a teacher evaluation instrument might be considered a degree of teacher qualification. The initial rating was based entirely on the scores received in the teacher evaluations and there was no evidence presented that the scores were incorrect or that Appellant should have been placed in the highest or lowest quintile that was exempted from consideration for transfer.

The second step of the process was a ranking of the remaining teachers, those in the second, third, and fourth quintiles, according to seniority. According to this ranking, Appellant would not have been transferred but for the fact that the principal asked for the removal from the transfer list of a teacher with less seniority than Appellant, which the central office honored. Under the process used by the Local System, a principal had the discretion to ask that a teacher not be transferred, but the principal was not under any mandate to request an exception for any teacher. The removal of the teacher with less seniority placed Appellant into the group to be transferred. Even if the teacher with less seniority might have been less qualified than Appellant, there has not been any showing that the process established by the Local System was improperly implemented since qualifications were not a part of the process.

Based upon the foregoing and a review of the record, it is the opinion of the State Board of Education that there was no evidence to support Appellant's claims of impropriety in the implementation of the transfer process, the evidence supports the Local Board's decision not to grant Appellant any relief on her August 31, 2010, grievance and Appellant's claims of harassment in her October 15, 2010, grievance were properly dismissed by the Local Board. Accordingly, the Local Board's decision is **SUSTAINED**.

This _____ day of June 2011.

MARY SUE MURRAY
VICE CHAIR FOR APPEALS