STATE BOARD OF EDUCATION

STATE OF GEORGIA

TAVORN STRASSBURGER,	:	
Appellant,	:	
vs.	:	**CASE NO. 2005-11**
ATLANTA CITY BOARD OF EDUCATION,	:	**DECISION**
Appellee.	:	

This is an appeal by Tavorn Strassburger (Appellant) from a decision by the Atlanta City Board of Education (Local Board) not to renew her contract as a vocational supervisor for the 2004-2005 school year because of a reduction in staff due to a loss of students or cancellation of programs and for any other good and sufficient cause under the provisions of O.C.G.A. §20-2-940. Appellant claims that the tribunal that heard her case was biased because it had previously heard and decided a similar case. The Local Board's decision is sustained.

This case arises out of the same factual situation set forth in *Velma Cooper et al. v. Atlanta City Bd. of Educ.*, Case No. 2005-08 (Ga. SBE, Nov. 10, 2004). The distinguishing difference between the cases is that in the instant case the Local Board chose not to renew Appellant's contract because of a reduction in staff due to the loss of students or the cancellation of programs, which is a permitted reason not to renew a contract under the provisions of O.C.G.A. § 20-2-940, whereas in *Cooper* the only reason for non-renewal was "other good and sufficient cause" and there was no showing of any other good and sufficient cause.

At the beginning of the hearing, Appellant moved to disqualify the tribunal panel because the members had previously heard and decided other cases involving the non-renewal of a vocational supervisor's contract. The hearing officer denied the motion because there was no showing of bias. The tribunal heard testimony that the vocational program had lost students and the state had reduced funds for the vocational program. Consequently, the Local Superintendent recommended the elimination of Appellant's position as a vocational supervisor and the Local Board voted to eliminate the position. The tribunal found that the evidence supported the decision to eliminate Appellant's position.

On appeal to the State Board of Education, Appellant claims that the Local Board denied her due process because the tribunal had heard and decided other cases involving the elimination of the vocational supervisor positions. The Local Board argues that there

was no evidence of bias on the part of any of the tribunal members and familiarity with a case is not grounds for establishing bias.

As pointed out by the Local Board, mere familiarity with a case is insufficient to establish bias on the part of a judge. For example, in *Welch v. State,* 257 Ga. 197, 357 S.E.2d 70 (1987), the Supreme Court refused to hold that a judge was biased in a second murder trial of defendant when he had presided in defendant's first murder trial. In *Lyles v. State*, 221 Ga. App. 560, 472 SE.2d 132 (1996), the defendant claimed that the trial judge was biased because he had heard pre-trial motions and had ruled against the defendant. The Court of Appeals stated that the argument was without merit.

In the instant case, the tribunal members were retired educators who did not have any stake in the outcome of the case. Appellant did not show any actual bias on the part of any of the tribunal members. The State Board of Education, therefore, concludes that it was not an error for the tribunal to hear the case and make a decision.

During oral argument of this case, Appellant claimed that because the State Board of Education reversed the Local Board's decision in *Velma Cooper et al. v. Atlanta City Bd. of Educ.*, Case No. 2005-8 (Ga. SBE, Nov. 10, 2004), which involved two other vocational supervisors, then the Local Board should be reversed in the instant case. Appellant's argument, however, fails on two counts. First, in *Cooper*, the Local Board attempted to non-renew the contracts based upon "other good and sufficient cause," without showing that the employees had done anything wrong or failed to take necessary actions. In the instant case, the Local Board based its non-renewal on a reduction in staff due to a loss of students or cancellation of programs, which does not require any showing of improper conduct or lack of required action on the part of an employee. In the instant case, the Local Board showed that there had been a loss of students in the program and that the state had decreased its funding for vocational programs, thus meeting the requirements for non-renewal based upon a reduction in staff due to a loss of students or cancellation of programs. O.C.G.A. § 20-2-940(a)(6).

Secondly, Appellant never raised the issues that were raised in *Cooper*. "If an issue is not raised at the initial hearing, it cannot be raised for the first time when an appeal is made." *Hutcheson v. DeKalb Cnty. Bd. of Educ.*, Case No. 1980-5 (Ga. SBE, May 8, 1980). The State Board of Education, as an appellate body, is not authorized to consider matters that have not been raised before the Local Board. *Sharpley v. Hall Cnty. Bd. of Educ.*, 251 Ga. 54, 303 S.E.2d 9 (1983). Throughout, the only issue raised by Appellant has been that the tribunal members were biased. Appellant, therefore, cannot raise additional issues during oral argument that were not previously raised.

Based upon the foregoing, it is the opinion of the State Board of Education that the tribunal members were not biased and Appellant was not denied due process. Accordingly, the Local Board's decision is
SUSTAINED.

This _____ day of January 2005.

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William Bradley Bryant
Vice Chairman for Appeals