

IN THE OFFICE OF THE SECRETARY OF EDUCATION  
COMMONWEALTH OF PENNSYLVANIA

MARILYN CHAPLESKIE,	:	
Appellant,	:	
	:	
v.	:	TTA NO. 02-07
	:	
WILLIAMS VALLEY SCHOOL	:	
DISTRICT,	:	
Appellee.	:	

**OPINION AND ORDER**

Marilyn Chapleskie (“Ms. Chapleskie”) filed an appeal with the Secretary of Education (the “Secretary”) of the decision of the Williams Valley School District’s Board of School Directors (the “Board”) suspending her without pay for ten (10) days.

**Findings of Fact**

Ms. Chapleskie possesses an Elementary School Principal certificate and has been employed by the Williams Valley School District (“District”) as the District’s Elementary School Principal since August 2006. On April 24, 2007, the District’s Superintendent, Diane M. Niederriter, Ed.D. (“Dr. Niederriter”), verbally suspended Ms. Chapleskie with pay until further notice. Dr. Niederriter sent Ms. Chapleskie a letter on April 25, 2007, informing Ms. Chapleskie that the verbal suspension without pay would be extended until further notice. On April 30, 2007, Dr. Niederriter sent Ms. Chapleskie a letter advising Ms. Chapleskie that she was asking the Board to convene a due process disciplinary hearing to suspend Ms. Chapleskie without pay for a period of time at least equal to the remainder of the school year. Dr. Niederriter advised that the hearing would be held May 21, 2007 and that Ms. Chapleskie’s suspension with pay would continue in effect until the hearing.

The Board held the disciplinary hearing for Ms. Chapleskie on May 21, 2007. On May 24, 2007, the Board voted 7-0 to suspend Ms. Chapleskie without pay for a period of ten (10) days from receipt of the Findings of Fact and Conclusions of Law. The Board mailed the Findings of Fact and Conclusions of Law and its Order to Ms. Chapleskie on May 31, 2007, and her suspension commenced on June 4, 2007.

On June 28, 2007, the Secretary received a Petition of Appeal filed by Ms. Chapleskie appealing the Board's Order of suspension, seeking reinstatement as Elementary School Principal with full pay and benefits retroactive to her disciplinary suspension that began on June 4, 2007. The Secretary received, on August 14, 2007, a Motion to Dismiss Petition of Appeal filed by the District. The District and Ms. Chapleskie filed briefs addressing the issues raised in the Motion to Dismiss.

#### **Discussion**

In its Motion to Dismiss, the District argues that the Secretary does not have jurisdiction to hear Ms. Chapleskie's appeal because the Secretary does not have jurisdiction to hear an appeal of a disciplinary suspension, and does not have jurisdiction to hear an appeal by a non-tenured teacher. Ms. Chapleskie argues that she is tenured and that the Secretary has jurisdiction to hear her appeal regarding her disciplinary suspension. In addition, Ms. Chapleskie argues that if the Secretary does not have jurisdiction to hear her appeal he should transfer the case to the Court of Common Pleas of Schuylkill County.

School boards are local agencies, 2 Pa.C.S.A. §101, and jurisdiction of appeals from school district decisions are generally vested in the courts of common pleas. 42 Pa.C.S.A. §933(a)(2). However, jurisdiction of appeals from school board decisions dismissing or demoting tenured teachers, and for disputes over accumulated sick leave, is vested in the Secretary. *See*, 24 P.S.

§§11-1131, 11-1151, 11-1154. An appeal from a “disciplinary suspension without pay or other benefits for the remainder of the school year” is not within the Secretary’s jurisdiction. *Rike v. Secretary of Education*, 508 Pa.190, 194, 494 A.2d 1388, 1390 (1985).

Ms. Chapleskie was not dismissed or demoted from her employment at the Williams Valley School District. Rather, the Board suspended Ms. Chapleskie without pay for a period of ten (10) days. Therefore, the Secretary does not have jurisdiction of Ms. Chapleskie’s appeal.<sup>1</sup>

Because the Secretary does not have jurisdiction to hear Ms. Chapleskie’s appeal, the matter must be transferred to the appropriate common pleas court. 42 Pa. C.S.A. §5103; *Kielbowick v. Ambridge Area School Board*, 156 Pa. Cmwlth. 356, 627 A.2d 276 (1993).

Accordingly, the following Order is entered:

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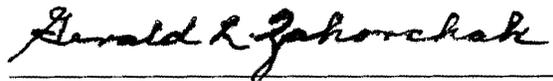
<sup>1</sup> Regardless of whether Ms. Chapleskie obtained tenure, the Secretary does not have jurisdiction to hear an appeal of a disciplinary suspension. Thus, there is no need to address the issue of whether Ms. Chapleskie obtained tenure.

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**ORDER**

AND NOW, this 4th day of October, 2007, it is hereby ordered and decreed that the Secretary of Education does not have jurisdiction to hear the appeal of Marilyn Chapleskie and, therefore, the District's Motion to Dismiss is **GRANTED**, and Marilyn Chapleskie's Appeal is transferred to the Court of Common Pleas of Schuylkill County pursuant to 42 Pa. C.S.A. §5103.



Gerald L. Zahorchak, D.Ed.  
Secretary of Education

Date Mailed:

October 4, 2007

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DISTRICT, :  
Appellee. :

CERTIFICATE OF SERVICE

I certify that on October 5, 2007, I served a true and correct copy of the  
**OPINION AND ORDER** upon the following persons by First Class U.S. Mail, Postage Prepaid,  
addressed to:

Harry W. Reed, Jr., Esq.  
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Counsel for Ms. Chapleskie

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Pottsville, PA 17901-7280  
Solicitor for the Williams Valley School District

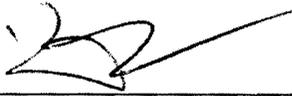
  
\_\_\_\_\_  
Karen S. Feuchtenberger  
Assistant Counsel



PENNSYLVANIA DEPARTMENT OF EDUCATION

REQUEST FOR SECRETARY OF EDUCATION'S SIGNATURE

Name/Title of Originator: Karen S. Feuchtenberger, Assistant Counsel

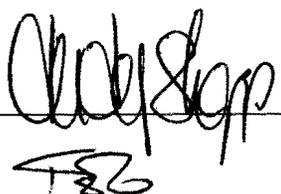
Signature of Originator: 

Description of Item to be Signed:

This is a Teacher Tenure Appeal filed by Ms. Chapleskie who received a disciplinary suspension from the William Valley School District. The District filed a Motion to Dismiss for lack of jurisdiction. Case law provides that the Secretary only has jurisdiction to hear appeals from demotions and dismissals, not disciplinary suspensions. In addition, when an appeal is improperly filed with the Secretary, the Secretary must transfer the matter to the appropriate Court of Common Pleas.

The decision provided to the Secretary for signature grants the District's Motion to Dismiss and transfers the case to the Court of Common Pleas of Schuylkill County.

Date by which Signature is Required: N/A

Signature of Approving Cabinet-Level Officer:   
FEB

**Directions:**

All documents requiring the signature of the Secretary of Education must be delivered to the office of the Executive Deputy Secretary with a completed "Request for Secretary of Education's Signature" form.

Prior to being submitted to the Executive Deputy Secretary, a request for the Secretary of Education's signature must be approved by the appropriate cabinet-level officer (Deputy Secretary, Director of Policy, Chief Counsel, Special Assistant to the Secretary).