

STATE BOARD OF EDUCATION

STATE OF GEORGIA

ROBERT J. COLEGROVE, ET AL.:

Appellant, :

v. : CASE NO. 1982-11

CLARKE 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 the Findings of Fact and Conclusions of Law of the Hearing Officer are made the Findings of Fact and Conclusions of Law of the State Board of Education and by reference are incorporated herein, and

DETERMINES AND ORDERS, that the decision of the Clarke County Board of Education herein appealed from is hereby sustained.

Mr. Vann and Mrs. Oberdorfer were not present.

This 11th day of November, 1982.

  
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HOLLIS Q. LATHEM  
Acting Vice Chairman for Appeals

STATE BOARD OF EDUCATION  
STATE OF GEORGIA

ROBERT J. COLEGROVE, ET AL.,	:	CASE NO. 1982-11
	:	
Appellants,	:	REPORT OF HEARING
	:	OFFICER
V.	:	
	:	
CLARKE COUNTY BOARD OF	:	
EDUCATION,	:	
	:	
Appellee.	:	

PART I

SUMMARY OF APPEAL

This is an appeal by a group of citizens of Clarke County (hereinafter "Appellants") from a decision by the Clarke County Board of Education (hereinafter "Local Board") concerning assignment of attendance zones. Appellant's claim that the decision of the Local Board resulted from a gross abuse of discretion, they were denied due process of law, and the Georgia Constitution violates the United States Constitution. The Hearing Officer recommends that the decision of the Local Board be upheld.

PART II

FINDINGS OF FACT

This controversy arose during the spring of 1982 when the Local Board realigned the attendance zones for the 1982-83 school year following the close of the Lyons Middle School.

The students who would have attended the Lyons Middle School were assigned to three other middle schools. The residents of the University Heights neighborhood protested the assignment of their children to the Clarke Middle School rather than the Hilsman Middle School. The Hilsman Middle School is closer to the neighborhood.

During 1980, the Local Board determined that it was necessary to close the Lyons Middle School. This determination was, in part, based upon a recommendation on the use of school facilities made by the State Department of Education. One of the remaining middle schools was expanded and modernized to accomodate additional students. The Local Board began considering plans for the redistribution of students during the spring of 1982. The Local Board announced at its March 11, 1982, meeting that it would hold an open public meeting on March 23, 1982, in order to obtain citizen input into its considerations. Advertisements concerning the meeting were made in two of the local newspapers and sent to the radio stations in the area.

On March 23, 1982, the Local Board held a meeting and received comments by interested parties on the factors they should consider in deciding what actions to take in connection with closing the Lyons Middle School and reassigning students to the remaining schools. Following the March 23, 1982, meeting, the Local Board reviewed different assignment plans.

The Local Board took into consideration racial representation, building capacities, transportation time and distance, and the socioeconomic representation of the areas to be included in the different attendance zones. These were the factors which the Local Board determined should be addressed as a result of the citizen input at the March 23, 1982, meeting. After considering the different plans, the Local Board met on April 27, 1982, and adopted a plan. The residents of the University Heights area protested the adopted plan and asked the Local Board to reconsider its position. On June 21, 1982, another meeting of the Local Board was held to reconsider its original decision and to hear the recommendations and arguments of the residents from the University Heights area. After hearing from the Local Superintendent and the residents, the Local Board voted to affirm its April 27, 1982 decision. On July 20, 1982, the residents of the University Heights area appealed to the State Board of Education.

### PART III

#### CONCLUSIONS OF LAW

Appellants raised four issues in the appeal submitted to the State Board of Education:

1. They were not given a fair, full, and impartial hearing;
2. The failure of the Local Board to advise them whether they would be affected constituted a gross abuse of discretion;

3. The action taken deprived Appellants of their rights without due process of law, and
4. Article VIII, Section V, Paragraph II of the Georgia Constitution (Ga. Code Ann. 2-5302) violates the Fourteenth Amendment of the United States Constitution, thus making the Local Board illegally constituted and its actions illegal.

Only the first three issues are addressed here because the State Board of Education does not have the authority to decide on the constitutionality of the laws of the State.

Appellants argue that because they were not given access to the other proposed plans in response to a motion to produce made before the June 21, 1982, hearing, they could not effectively present their case to the Local Board and were thus denied a fair, full, and impartial hearing. Appellants also maintain the Local Board did not give sufficient advance publicity about its first meeting on March 23, 1982. In addition, Appellants complain that the March 23, 1982, meeting was held too far in advance of when an actual decision was made so they did not have an opportunity to present any plans to the Local Board. They argue that the Local Board then made its decision in meetings that were not open to the public and the proposed plans also were not made available for public comment. They argue that these actions constituted a gross abuse of discretion by the Local Board and denied them due process.

The Local Board responded to Appellants' position by arguing that the residents were given an opportunity to voice their concerns at the March 23, 1982, meeting and that a plan

could not be provided to anyone prior to the April 27, 1982, decision because there would not have been anything to report. Additionally, the Local Board argues that Appellants were given a complete hearing at the June 21, 1982, hearing. The Local Board also raised the issue that the decision regarding placement of students is an administrative decision that is not subject to appeal to the State Board of Education.

Local boards of education are charged with the control and management of the schools within the county. Ga. Code §32-901. A decision by a local board of education will be upheld unless it is shown that the local board "has acted in violation of law or has grossly abused its wide discretion..." Boney v. County Bd. of Ed. of Telfair County, 203 Ga. 152, 155 (1947). In the instant case, it does not appear that the Local Board abused its wide discretion. The Local Board considered alternative plans, it provided the residents an opportunity to express their concerns and the areas the Local Board should address in making a decision, it has attempted to obtain a balance among the three remaining middle schools in terms of absolute numbers, percentages, and, to a lesser degree, socio-economic levels.

Although Appellants maintain that the Local Board's failure to give them adequate notice and an effective method of influencing the plan that was adopted constituted a gross abuse of discretion and denied them due process, there is no requirement of law for the Local Board to obtain input from the citi-

zens, or that the citizens should be able to determine which plan should have been adopted when the Local Board considered the reassignment of pupils to the various schools under its control. Citizen support might require a local board of education to obtain input from the citizens and attempt in every way to satisfy their desires, but the law does not impose the requirement. The Hearing Officer, therefore, concludes that the Local Board of Education did not abuse its discretion in taking the actions it took and in the manner in which it took them.

A local board of education does not have to grant a hearing or permit citizen input when it is making a decision regarding the assignment of students to the different schools under its jurisdiction because it is acting in an administrative capacity rather than in a quasi-judicial capacity. See, Anderson v. McMurray, 217 Ga. 145 (1961); Mayor of East Point v. Jones, 88 Ga. App. 848 (1953); McNeil, et al. v. Whitfield County Bd. of Ed., Case No. 1980-16. In the circumstances of the instant case, Appellants were given an opportunity to provide the Local Board with some of the factors the Local Board should consider in making its decisions, and Appellants were granted an opportunity to petition the Local Board for reconsideration of its original decision and again present their arguments. While they presented their arguments, Appellants were also given an opportunity to present an alternative plan to the Local Board. The Hearing Officer, therefore, concludes that the Local Board

did afford Appellants a full, fair, and impartial hearing, and Appellants were not denied due process.

PART IV  
RECOMMENDATION

Based upon the foregoing findings and conclusions, the record submitted, and the briefs and arguments of counsel, the Hearing Officer is of the opinion the Local Board acted within the scope of its authority and did not grossly abuse its discretion; Appellant's were given a full and fair impartial hearing before the Local Board, and Appellant's were not denied due process. The Hearing Officer, therefore, recommends that the decision of the Local Board be sustained.

[Appearances: Appellants - Lee P. Morgan; Local Board - Erwin, Epting, Gibson, McLeod & Blasingame; Terrell W. Benton, Jr.]

*L. O. Buckland*  
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L. O. BUCKLAND  
Hearing Officer