

STATE BOARD OF EDUCATION

STATE OF GEORGIA

LARRY T.,)	
)	CASE NO. 1985-10
Appellant)	
)	
v.)	
)	
HOUSTON COUNTY)	REPORT OF
BOARD OF EDUCATION)	HEARING OFFICER
)	
Appellee.)	

PART I

SUMMARY OF APPEAL

This is an appeal by the father of Larry T. (hereinafter "Student") from a decision of the Houston County Board of Education (hereinafter "Local Board") upholding a Student Review Committee's decision to expel the Student. The reason for the expulsion was that the Student exposed himself in class. The father's appeal is based upon a desire that the Student be allowed to continue his education in the regular Houston County school program. The Local Board argues the appeal should be dismissed as improperly filed and, if it is not, then the decision of the Local Board should be sustained. The Hearing Officer recommends that the appeal be dismissed.

PART II

FACTUAL BACKGROUND

The Student in this case is an 11th grade student who was charged with exposing himself to two female students during math

class. A Student Review Committee recommended that the Student be permanently expelled and the father appealed that decision to the Local Board. At the Local Board hearing, there was testimony by one of the female students that the Student did expose himself to her. There was also testimony by two Assistant principals that the Student, after first denying he had exposed himself, admitted it to them. The Student contended at the hearing that he was playing a practical joke and what they really saw was just his finger. He stated that he had only told the Assistant Principals that it could have looked like he exposed himself. The Local Board sustained the Student Review Committee's recommendation of permanent expulsion by their decision of May 9, 1985. The Student's father wrote a pro se letter to the Local School Superintendent requesting an appeal. The letter is dated July 1, 1985, but subsequent correspondence contained in the record is dated in June, 1985.

PART III

DISCUSSION

Appellee argues on appeal that the State Board of Education should dismiss the case for failure of the Appellant to comply with the requirements of O.C.G.A. §20-2-1160, which sets forth the requirements for appealing a decision of a local board to the State Board of Education. That section provides:

... The appeal shall be in writing and shall distinctly set forth the question in dispute, the decision of the local board, and a concise statement of the reasons why the decision is complained of...

The record does not clearly disclose when the appeal was filed but the appeal letter simply states that Appellant's father would like to see Appellant continue his education. Appellant was notified of a hearing before the State Hearing Officer and given the opportunity to submit a brief. Appellant's father declined to attend a hearing before the State Hearing Officer and a brief was not submitted. Other than the parent's desire for Appellant to continue his education, there have not been any disputed questions raised, or any reasons set forth why the Local Board's decision was improper.

A degree of procedural latitude is, perhaps, warranted when an appellant is not represented by an attorney, but, in the instant case, there is nothing before the State Board of Education which presents any basis for appeal. The State Hearing Officer, therefore, concludes that, because of Appellant's total failure to comply with any of the requirements of O.C.G.A. §20-2-1160, the appeal should be dismissed since there have not been any reasons set forth why the Local Board's decision is incorrect.

Even if the appeal is not dismissed, absent an abuse of discretion or violation of law, the State Board of Education is required to sustain the decision of the Local Board if there is any evidence to support that decision. See, Ransum v. Chattooga Cnty Bd. of Ed., 144 Ga. App. 783 (1978); Antone v. Greene Cnty Bd. of Ed., Case No. 1976-11. In the present

case, it is clear that there is evidence to support the Local Board's decision. There is direct evidence in the form of testimony from the female student. Also, there is the testimony of the admission against interest made by the Student, in that the assistant principals testified that he told them he exposed himself.

The Local Board of Education is charged with the control and management of the local school system. Part of its duty in managing the school system requires that it maintain discipline among the students. Here, the Student has clearly violated ordinary standards of conduct and, thus, the Local Board had the authority to discipline the Student. The parent has not cited any case law or statute which shows the Local Board abused its disciplinary authority. Thus, if the State Board of Education decides the appeal should not be dismissed, the decision of the Local Board should be sustained.

PART IV

RECOMMENDATION

Based upon the foregoing discussion and the record submitted, the Hearing Officer is of the opinion that Appellant has not complied with the requirements to appeal a decision of the Local Board set forth in O.C.G.A. §20-2-1160 and the appeal should be dismissed. In the absence of dismissal, the

State Hearing Officer is of the opinion that the evidence supports the decision of the Local Board. The State Hearing Officer, therefore, recommends that the appeal be

DISMISSED.

L. O. Buckland

L. O. BUCKLAND
State Hearing Officer