

STATE BOARD OF EDUCATION

STATE OF GEORGIA

EARNEST H.,)
Appellant,)
v.) CASE NO. 1985-21
HOUSTON COUNTY BOARD OF EDUCATION)
Appellee.)

O R D E R

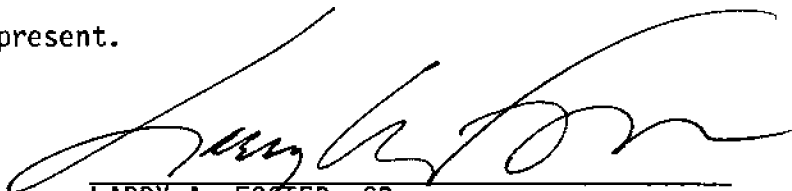
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

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 appeal of the decision of the Houston County Board of Education herein is hereby DISMISSED due to the fact that Appellant did not comply with the requirements to appeal a decision of the Local Board set forth in O.C.G.A. §20-2-1160.

This 10th day of October, 1985.

Mr. Temples was not present.



LARRY A. FOSTER, SR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

EARNEST H.,)	
)	CASE NO. 1985-21
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 Earnest H. (hereinafter "Student") from a decision of the Houston County Board of Education (hereinafter "Local Board") upholding a principal's decision to suspend the Student for three days or require the Student to attend the alternative school for three days. The reason for the principal's action was that the Student hit another student after being pushed by the other student. The father's appeal letter stated in part: "...it is our intention to appeal the recent decision of the Houston County Board of Education." 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 a junior high school student who was involved in a fight with another student. An assistant

principal at the school gave the Student the option of attending the alternative school for three days, in which case the Student would receive credit for his school work, or being suspended for three days, in which case he would receive zeros for missing his school work. The Student's father did not allow the Student to attend the alternative school and requested a hearing before the Local Board. At the Local Board hearing, there was testimony that the Student was involved in a fight. The Student's father contended at the hearing that the Student had a right to defend himself because he was pushed. The Local Board sustained the principal's action by decision at the hearing on May 20, 1985. The Student's father wrote a pro se letter to the Local School Superintendent notifying the Superintendent that it was their intention to appeal to the State Board of Education. The letter is dated June 13, 1985. The parties were informed of the need to submit briefs, and of a hearing to be held on September 3, 1985. The Student neither submitted a brief nor attended the hearing.

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 appeal letter simply states that "...it is our intention to appeal the recent decision of the Houston County Board of Education." Appellant was notified of a hearing before the State Hearing Officer and given the opportunity to submit a brief. Appellant's father failed to attend a hearing before the State Hearing Officer and a brief was not submitted. 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. See, Larry T. v. Houston Cnty. Bd. of Ed., Case No. 1985-10.

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. The Student's representative admitted the Student was involved and the assistant principal testified the students admitted the fight to him.

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
State Hearing Officer