



**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>STEVE S.,</b>	)	
	)	
<b>Appellant,</b>	)	<b>CASE NO. 1986-8</b>
	)	
<b>v.</b>	)	
	)	
<b>OGLETHORPE COUNTY BOARD</b>	)	
<b>OF EDUCATION,</b>	)	
	)	<b>RECOMMENDATION OF</b>
<b>Appellee.</b>	)	<b>HEARING OFFICER</b>

**PART I**

**SUMMARY OF APPEAL**

This is an appeal by the parents (hereinafter "Appellants") of Steve S. (hereinafter "Student") from a refusal by the Oglethorpe County Board of Education (hereinafter "Local Board") to hear and decide Appellants' objection to the Student's being suspended by the principal of the Student's school for ten days. Appellants contend the Student was treated unfairly in that he was denied the right to defend himself in an unbiased hearing and request that certain discipline reports be reversed and the Student be allowed to make up lost time. The Local Board contends that the case should be dismissed or affirmed. The Hearing Officer recommends the appeal be dismissed.

**PART II**

**FACTUAL BACKGROUND**

Appellants appeared before the Local Board on March 4, 1986 to complain regarding the Student's ten-day suspension from high school. The Local Board declined to reach any decision and the record before the State Board of Education consists of the minutes of the Board meeting, the parents' appeal letter, a letter from the Local Superintendent concerning notice of suspension, and the parents' request to appear before the Local Board. The minutes

state that the Local Board heard the complaint and that no action was taken based upon the Local Board's determination that short-term suspensions are matters left to the discretion of school principals and are not required to be reviewed by the Board of Education.

The letter from the Local Superintendent states that the consensus of the Local Board was to support the principal's action.

The parents filed this appeal on March 5, 1986.

### **PART III**

#### **DISCUSSION**

O.C.G.A. § 20-2-1160 authorizes the State Board of Education to consider appeals from decisions of a local board of education rendered on a contested issue after a hearing. The Georgia Supreme Court has held that the State Board of Education is restricted to the testimony previously considered by the Local Board and can only decide issues on which the Local Board has previously rendered a decision. Sharpley v. Hall Cnty. Bd. of Ed., 251 Ga. 54 (1983); Owen v. Long Cnty. Bd. of Ed., 245 Ga. 647 (1980); Boney v. Cnty. Bd. of Ed., 203 Ga. 152 (1947).

Appellants have attempted to supplement the record by providing additional facts, an affidavit of another student, a copy of a portion of the Local Board rules, and some newspaper stories. While all of those items may merit consideration by the Local Board, the State Board of Education is limited to considering the evidence reflected in the record below.

The record in this instance simply does not reflect that any issues were heard and decided by the Local Board. None of the contentions argued by Appellants on appeal are reflected in the minutes of the Board meeting. Thus, the Hearing Officer and State Board are unable to determine whether these issues were considered by the Local Board. Additionally, no

decision is reflected in the minutes of the Local Board and, thus, there is no decision by the Local Board for the State Board to consider.

If Appellants contend the Local Board provided them a hearing and the transcript is incorrect, or that the Local Board did not provide them a hearing but was required to do so, Appellants' remedy is to file a mandamus action in Superior Court to require the school officials to perform their duties. This is not to state that the Local Board has failed to perform its duties (the Hearing Officer takes no position in that regard), but to state that Appellants do have a legal remedy if Appellants' rights are being violated.

#### **PART IV**

#### **RECOMMENDATION**

Based upon the foregoing discussion, the record presented, and the briefs and arguments presented, the Hearing Officer is of the opinion the record does not reflect a decision made by a local board of education on a contested issue or controversy. The Hearing Officer, therefore, recommends the appeal be

**DISMISSED.**

**L. O. BUCKLAND**  
Hearing Officer