

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

**MISTY W.,**

**Appellant,**

**v.**

**WALKER COUNTY BOARD OF  
EDUCATION,**

**Appellee.**

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**CASE NO. 1986-16**

**ORDER**

This order is issued in response to a motion by the Walker County Board of Education (hereinafter “Local Board”) to dismiss the above-captioned appeal for failure on the part of Appellant to file the appeal in a timely manner.

**SUMMARY OF FACTS PERTINENT TO  
MOTION FOR DISMISSAL OF APPEAL**

This is a special education matter in which Appellant is the parent of Misty w. (hereinafter “Student”). On September 27, 1985, Appellant requested a hearing concerning the educational services to be provided the Student. The Local Board’s Superintendent responded to the request and, in his response, he included a form entitled Parental Rights in Special Education. The form included the following statement:

...ll) Right to appeal the decision of the regional hearing officer to the state hearing officer for the Georgia Board of Education and receive a decision within 30 days of the filing of an appeal...

The form did not include a statement to the effect that the final decision of the regional hearing officer is binding on all parties unless appealed within 30 calendar days to the State Hearing Officer for the Georgia Board of Education.

A hearing in this matter was completed by a regional hearing officer on November 15, 1985. The regional hearing officer extended the time for a decision to December 17, 1985, based upon the fact the Regional Hearing Officer was unable to obtain a copy of the transcript until December 4, 1985. The Regional Hearing Officer issued her decision on December 16, 1985.

On November 16, 1985, after the completion of the hearing, but before the written decision of the hearing officer was issued, Appellant filed this appeal. No grounds for appeal are stated in the appeal letter. The appeal was transmitted to the State Hearing Officer on May 16, 1986. On May 21, 1986, the Local Board moved to dismiss the appeal as untimely.

### **DISCUSSION**

The Local Board contends on appeal that the appeal should be dismissed because the appeal was not appealed until some four months after the decision of the Regional Hearing Officer and, therefore, fails to meet the requirements of the State Board of Education requiring that the appeal be filed within thirty days of the decision of the Regional Hearing Officer.

State Board of Education Policy JQAA requires the superintendent or chairperson of the Local Board, upon oral or written appeal to the superintendent or chairperson, to send a letter containing a statement that the decision of the Regional Hearing Officer is binding on all parties unless appealed within 30 calendar days to the State Hearing Officer for the Georgia Board of Education. Said policy also requires the appealing party to include a statement distinctly setting forth the questions and issues involved and the reasons why the decision appealed is erroneous.

In this case, the record does not reflect that the required statement was included in the statement provided to Appellant. Appellant was only informed that a decision on the appeal would be made within 30 days after the appeal was filed. Based upon the failure of the Local Board to comply with the requirement notifying Appellant that the decision of the Regional Hearing Officer is final unless appealed within 30 days, the State Hearing Officer is of the opinion the appeal is not untimely. Appellant may pursue this appeal but must provide the hearing officer with a statement distinctly setting forth the questions and issues involved and the reasons why the decision appealed is erroneous.

### **DECISION**

Based upon the foregoing discussion and the record presented, and the Motion of Appellee, the State Hearing Officer is of the opinion Appellant may pursue the appeal if she provides a statement distinctly setting forth the questions and issues involved and the reasons why the decision appealed is erroneous. Appellant's statement must be received by the State Hearing Officer or the State Board of Education within 30 days of the date of this decision. The Local Board's motion to dismiss is, therefore,

**DENIED.**

This 11th day of June, 1986.

L. O. Buckland  
State Hearing Officer