

STATE BOARD OF EDUCATION

STATE OF GEORGIA

BILL BAKER,)	
)	
Appellant,)	
)	CASE NO. 1986-25
v.)	
)	
APPLING COUNTY)	
BOARD OF EDUCATION,)	
)	
Appellee.)	

ORDER

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 Appling County Board of Education herein appealed from is hereby sustained.

Mrs. Jasper was not present.

Members Baranco, Owens and Sears voted against upholding the decision.

This 11th day of September, 1986.

LARRY A. FOSTER, SR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

BILL BAKER,)	
)	SBE 1986-25
Appellant,)	
)	
v.)	
)	
APPLING COUNTY BOARD)	RECOMMENDATION OF
EDUCATION,)	HEARING OFFICER
)	
Appellee.)	

SUMMARY

This is an appeal by the father of Brian B. (hereinafter “Student”) from a decision of the Appling County Board of Education (hereinafter “Local Board”) to suspend the Student for the remainder of the semester for violation of the Local Board’s rule prohibiting possession of alcohol. The father contends the Local Board abused its discretion by taking away credits already earned by the Student and by holding the hearing when the Student had withdrawn from school. The Hearing Officer recommends that the decision of the Local Board be sustained.

FACTUAL BACKGROUND

The Student attended high school in Appling County until he was caught drinking alcohol in the motel where he and his golfing teammates were staying prior to an out-of-town match. After receiving notice that there would be a disciplinary hearing before the Local Board, the Student withdrew from school and enrolled in a private school. The Local Board has a policy which prohibits possession of alcoholic beverages off the school grounds at a school function, activity, or event. The policy provides for expulsion from school for the remainder of the semester and total loss of credits for the semester on the first offense.

Prior to the hearing, the Student's father objected to the jurisdiction of the Local Board to hold a hearing since the Student was no longer enrolled. At the hearing, the Student's father also contested the loss of all credits for the semester. After hearing the arguments, the Local Board voted to suspend the Student for the remainder of the semester with total loss of all credits.

The only record of the hearing before the Local Board consists of the minutes of the meeting.

An appeal was filed on the grounds the Local Board did not have jurisdiction since the Student was no longer enrolled, the Local Board abused its discretion by revoking grades that had already been earned, and the Local Board lacked the authority to revoke credits because of an infraction which was unrelated to education.

PART III

DISCUSSION

The first issue is whether the Local Board had jurisdiction to conduct a hearing since the Student had withdrawn from school and enrolled in a private school. The Local Board argues that this issue was not raised at the hearing and cannot be considered on appeal, and the appeal should, therefore, be dismissed. The Local Board then points to its own minutes to establish as a fact that the issue was not raised at the hearing.

The record submitted to the State Board of Education by the Local Superintendent included the Student's father's letter to the Local Board which objected to the Local Board's jurisdiction to conduct a hearing. It is, therefore, clear in this case that the issue of the Local

Board's jurisdiction was raised, notwithstanding the lack of any mention of the objection in the Local Board's minutes. Since the issue was raised prior to the hearing, the Local Board's decision to conduct the hearing must be deemed to be a decision that it had jurisdiction.

In the absence of a transcript of a hearing, the rules governing appeals provide that the parties can provide a written description of the proceedings. The record of a hearing, therefore, is not limited to minutes prepared by a local board, but can include other information provided by the parties. Although the exact procedures were not followed in this case, the submission as part of the record of the letter that protested the jurisdiction clearly establishes that the issue was raised before the Local Board. The Hearing Officer, therefore, concludes that the appeal should not be dismissed for failure to raise the issue of jurisdiction before the Local Board.

Nevertheless, the Hearing Officer concludes that the Local Board did have jurisdiction to conduct a hearing subsequent to the Student's withdrawal since it had jurisdiction at the time of the offense. The Student has not offered any authority to establish the proposition that an offending party can avoid jurisdiction simply by removing from the physical bounds of the jurisdictional authority. Even in criminal law, where the rights of an individual are safeguarded more than in an administrative process, the process of extradition still exists as a part of our jurisprudence.

The second and third issues raised are whether the Local Board abused its discretion by revoking credits that had already been earned and acted illegally by revoking credits because of an offense unrelated to education. The Local Board again argues that its minutes do not show that these issues were raised at the hearing and, therefore, they cannot be considered on appeal. Alternatively, the Local Board argues that it did not act arbitrarily or illegally because the denial of credits is within its proper discretion and authority.

Although it is unfortunate there was not a transcript or a statement of the hearing, the Local Board's minutes do show that there was a discussion concerning the loss of credits, and the Student's father expressed concern "with the no credit issue showing on ... [the Student's] record." Because the minutes are not a verbatim transcript or an agreed to statement of the hearing, and because such minutes are essentially self-serving, the Hearing Officer is of the opinion that if there is any indication in the minutes that an issue may have been raised before a local board, then that issue is properly addressed on appeal. The Hearing Officer, therefore, concludes that the issues of the Local Board's discretion and authority are properly before the State Board of Education.

Local boards of education are required by the state Constitution to exercise control and management of the schools within their jurisdiction. In the exercise of such control and management, local boards have broad discretionary powers. In the instant case, there was no showing that the Local Board's policy was arbitrary and capricious. The loss of credits results in all students being treated equally, regardless of when their offense occurs during the school term. Thus, every student, whether in the ninth grade or twelfth grade, whether at the beginning or the end of the school term, receives the same discipline. The Local Board's policy, therefore, promotes consistency rather than permitting disparate results. Local boards also have an interest in discouraging the use of alcohol or drugs, and it does not require any expansion of imagination to realize that alcohol or drugs can have an impact on the educational process and the health and welfare of the students. The Student cites Katzman v. Cumberland Valley School Dist., 479 A.2d 671 (Pa. 1984) for the proposition that a local board cannot change a student's grades as part of a discipline policy for conduct unrelated to the achievement being graded. The Katzman case was decided under Pennsylvania statutory laws which expressed an intent not to use grades as a discipline method. This policy has not been adopted in Georgia. The Katzman case, therefore, is inapplicable, regardless of the merits of the policy. The Hearing Officer, therefore, concludes that the Local Board's policy is within its discretionary authority, and providing for the loss of credits for the semester is not illegal.

RECOMMENDATION

Based on the foregoing discussion, the record presented, and the briefs and arguments presented, the Hearing Officer is of the opinion the decision of the Local Board was not arbitrary, capricious or illegal. The Hearing Officer, therefore, recommends the decision of the Local Board be

SUSTAINED.

L.O.BUCKLAND