

STATE BOARD OF EDUCATION

STATE OF GEORGIA

SONNY H.,	:	
Appellant	:	
	:	
	:	CASE NO. 1990-7
v.	:	
	:	
LAMAR COUNTY	:	
	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	
	:	
JOANNE B.,	:	
Appellant,	:	
	:	CASE NO. 1990-8
	:	
v.	:	
LAMAR COUNTY	:	DECISION
	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

These cases involve the Lamar County Board of Education’s policy of not granting any credit to a student who is absent from school for more than ten days. In each case, the appellant missed more than ten days of school and the Lamar County Board of Education (“Local Board”) denied the appellant’s request to waive the policy because of extenuating circumstances. The decisions of the Local Board are reversed.

The Local Board has a policy that provides for the loss of credits if a student is absent more than ten days in a semester, whether the absence is excused or unexcused. The policy provides that a student can request advance approval and an exception from the policy if an excused absence will result in more than ten days of absence. The policy lists four types of excusable absences: (1) personal illness; (2) serious illness of a family member; (3) death of a family member or relative, and (4) prearranged absences. The policy also provides that the student’s teachers must notify the student’s parents when the student’s absences reach six days in a semester.

Appellant Sonny H. was absent a total of 11 days from his English course during the fall semester of the 1989-1990 school year. He had six unexcused absences and five excused absences. He was absent a total of 12 times from his DCT [sic] co-operative program, but the

record does not show whether the days were excused or unexcused.

Appellant Joanne B. was absent 11 days from American History and 12 days from Office Lab. She had only one unexcused day of absence. She was involved in an automobile accident that resulted in injuries that kept her out of school on the final two days of the semester. She had completed all of her course work and would have received an "A" in Office Lab and a "C" in American History.

The record indicates that the American History teacher notified the parents of Joanne B. when she had six absences.

The record, however, does not show that any other teacher notified the parents of either appellant.

Both appellants maintain that the Local Board's decision was arbitrary and capricious and an abuse of discretion. Appellant Sonny H. also argues that the Local Board denied him procedural due process because the teachers failed to provide him with written notice that he had six absences.

The care and management of local school systems is vested in the local boards of education. As a result, the State Board of Education cannot substitute its judgment for that of the local board of education. The standard for review by the State Board of Education is that if there is any evidence to support the decision of the local board of education, then the local board's decision will stand unless there has been an abuse of discretion, or the decision is so arbitrary and capricious as to be illegal. See, Ransum v. Chattooga County Bd. of Educ., 144 Ga. App. 783 (1978); Antone v. Greene County Bd. of Educ., Case No. 1976-11.

This Board has held that a local board did not abuse its discretion in adopting a policy that denied credits to students who miss more than a specified number of days. See, Melvina D. v. Bryan Cnty. Bd. of Educ., Case No. 1987-34; Netra Wymbs v. Clarke Cnty. Bd. of Educ., Case No. 1986-36; Edward E. v. Effingham Cnty. Bd. of Educ., Case No. 1985-5. If, however, the policy fails to indicate whether the local board can review the absences, or cannot be fairly interpreted by the students, parents, or the local board members, then the policy will not be upheld. Robert C. v. Marion Cnty. Bd. of Educ., Case No. 1985-7. Also, if the policy can result in similarly situated students being treated differently, then the policy will be considered arbitrary and capricious. Michael C. v. Clinch Cnty. Bd. of Educ., Case No. 1981-12.

State Board Policy JBD (Jul 1983) provides that students may be excused for personal illness, illness or death in the immediate family, religious holidays, and when required by governmental agencies. Excuses can also be granted when conditions exist that would make attendance impossible or hazardous. Additionally, students who serve as pages in the Georgia General Assembly are excused. The policy, however, does not address whether students should be denied credits for being absent from school.

The Local Board's policy, as applied to Appellant Joanne B., results in the loss of credits when she did not have any control over being absent. All of her absences but one were excused, and she had completed all of her course work and had passing grades when she was involved in an accident. When she was involved in the automobile accident, she had completed all that was required of her for the semester. In the case of Appellant Sonny H., the policy procedures were not followed because the teachers failed to provide written notice, or the Local Board failed to prove that the teachers gave written notice, that he had six absences.

The Local Board's decision with respect to Appellant Joanne B. was arbitrary and capricious. There is no reason to withhold the credits from a student who has attended classes during the entire semester, who has completed all course work with passing grades, and who is unavoidably involved in an automobile accident. The Local Board's policy states that "regular school attendance enables each student to benefit best from the school program...." This goal, however, is not advanced when a student has complied with the requirements through the final examination. Melvina D. v. Bryan Cnty. Bd. of Educ., Case No. 1987-34, Netra Wymbs v. Clarke Cnty. Bd. of Educ., Case No. 1986-36, and Edward E. v. Effingham Cnty. Bd. of Educ., Case No. 1985-5 do not automatically approve the denial of credits when a student misses a specified number of days. In each of those cases, there was no evidence presented that the policy was arbitrarily applied. Appellant Joanne B., however, has shown that the Local Board applied its policy in an arbitrary manner.

With Appellant Sonny H., the teachers failed to notify the parents that he had missed six days from school. Under the Local Board's policy, students are required to follow strict procedures in order to have an absence exempted from the ten-day rule, i.e., they must have an absence approved in advance by the Local Board. If the policy's procedures are strictly construed against the students, then they should be as strictly followed by the school system. If the parents fail to receive a notice, then they are not in a position to attempt to insure that the students are in school. Appellant Sonny H., therefore, was denied procedural due process.

Based upon the foregoing, the records and briefs submitted, and the arguments made, the State Board of Education is of the opinion that the Local Board applied its policy in an arbitrary and capricious manner against Appellant Joanne B. and the Local Board denied Appellant Sonny H. procedural due process. The decisions of the Local Board, therefore, are hereby

REVERSED.

This 14th day of June, 1990.

Larry A. Foster
Vice Chairman For Appeals