

STATE BOARD OF EDUCATION

STATE OF GEORGIA

KAREN WALDEN, ET AL.,	:	
	:	
Appellant,	:	
	:	CASE NO. 1990-9
v.	:	
	:	DECISION
JEFFERSON COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal from a decision by the Jefferson County Board of Education (“Local Board”) to deny a petition for rehearing filed by Karen Walden, et al. (“Appellants”). The petition for rehearing was filed in an effort to have the Local Board reconsider a School Facilities Plan that the Local Board had adopted previously. The appeal is dismissed because the State Board of Education lacks jurisdiction to consider the matter.

On January 4, 1990, the Local Board adopted a School Facilities Plan that proposed the closing of two high schools and the building of a centralized high school within Jefferson County. The Local Board made its decision after an appointed Citizens Building Advisory Committee conducted a series of public meetings. The Local Board, however, did not conduct a quasi-judicial hearing under the provisions of O.C.G.A. § 20-2-1160. Pursuant to the provisions of State Board of Education Policy BCAEA, Appellants filed a motion¹ for rehearing. The Local Board considered and denied the motion for rehearing without conducting a hearing on the basis that the adoption of a school reorganization plan was not a case or controversy involving the administration of school law.

¹ Policy BCAEA provides that in cases where a local board makes policy determinations ex parte, then “the person aggrieved by such decisions shall file a written motion for reconsideration with the local board within 30 days of the decision complained of...”

The State Board of Education has limited jurisdiction and can only hear cases after a decision has been made by a local board of education acting as a tribunal under the provisions of O.C.G.A. § 20-2-1160. In the absence of such a decision, as presented in this case, the State Board of Education cannot render a decision. This appeal, therefore, must be dismissed.

Appellants maintain that the Local Board has Violated State Board Policy BCAEA by not granting them a hearing under the provisions of O.C.G.A § 20-2-1160. Appellants further cite Mallard v. Warren, 222 Ga. 731, 152 S.E.2d 380 (1966) for the proposition that the Local Board is required to grant them a hearing. Mallard, however, does not grant the State Board of Education jurisdiction to hear an appeal when there has not been a hearing under O.C.G.A. § 20-2-1160. Although the Mallard court stated that there was a right to a hearing when a local board refused to conduct a hearing concerning school consolidation, it went on to state that in the absence of a hearing there could not be any appeal to the State Board of Education because the State Board of Education lacked jurisdiction to hear anything but appeals from decisions of the local board sitting as a court.

Based upon the foregoing, the record presented, and the briefs and arguments of counsel, the State Board of Education is of the opinion that it does not have jurisdiction to consider the decision made by the Local Board. The appeal, therefore, is

DISMISSED.

This 14th day of June, 1990.

Larry A. Foster, Sr.
Vice Chairman For Appeals

