STATE BOARD OF EDUCATION

STATE OF GEORGIA

NICHOLLS EDUCATION ACTION COMMITTEE, ET AL.,	:	
Appellants,	:	
	:	**CASE NO. 1990-12**
v.	:	
	:	**DECIS ION**
COFFEE COUNTY BOARD OF EDUCATION,	:	
Appellee.	:	

PART I

SUMMARY

This is an appeal by the Nicholls Education Action Committee, the Broxton Education Action Committee, and other residents of Nicholls and Broxton, Georgia ("Appellants") from a decision by the Coffee County Board of Education ("Local Board") to affirm a previous decision to adopt a school consolidation plan. Appellants claim that the Local Board's decision is arbitrary and capricious. We affirm the Local Board's decision.

PART II

FACTUAL BACKGROUND

On February 1, 1990, the Local Board adopted a "Five Year Facilities Plan" (the "Facilities Plan"). The Facilities Plan provides for the consolidation of three high schools into a single new high school to be constructed near Douglas, Georgia, which is in Coffee County, and the reorganization and rezoning of grades K-S. Appellants filed a motion for reconsideration with the Local Board under the provisions of O.C.G.A. § 20-2-1160 and State Board of Education Policy. The Local Board scheduled a hearing on March 27, 1990.

The March 27, 1990, hearing was presided over by a hearing officer who the parties stipulated was a disinterested member of the State Bar of Georgia. During the hearing, evidence was presented that the Local Board had been studying various consolidation plans for several years. A committee conducted several meetings with citizen groups to obtain citizen input. The Local Board also requested assistance from the Georgia Department of Education.

The plan adopted by the Local Board provides that the present high schools in Nicholls, Braxton, and Douglas, Georgia will be closed. The Local Board will build a new school in the vicinity of Douglas, Georgia, to accommodate the high school populations who attend the

existing three high schools. Two of the high schools to be closed, Broxton and Nicholls, have 147 students and 142 students, respectively. The school system will save approximately one million dollars per year as a result of the consolidation.

At the conclusion of the hearing, the Local Board voted not to reconsider its original decision. Appellants then filed a timely appeal to the State Board of Education.

PART III

DISCUSSION

Appellants claim that the Local Board's decision was arbitrary and capricious. In support of their claim, Appellants maintain that the Local Board (1) failed to establish that there will be any educational benefits involved in the reorganization and consolidation; (2) adopted the Facilities Plan without sufficient information concerning the costs of a new facility; (3) provided for the transfer of students even though the new facility has not been constructed; (4) failed to show that the present high school is unsuitable; (5) will displace teachers, and (6) failed to consider the economic impact the closing of the high schools will have on Nicholls and Braxton. Appellants make additional claims, but they are simply variations of those listed. Appellants finally argue that the hearing should be conducted again because of a conflict of interest on the part of the hearing officer.

Local boards of education are charged with the authority and responsibility of operating and managing the schools within their jurisdiction. O.C.G.A. § 20-2-50. 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 Ed. of Educ., 144 Ga. App. 783 (1978); Antone v. Greene County Bd. of Educ., Case No. 1976-11.

The Georgia Legislature has expressed a determination that the kindergarten and primary schools should have a base population of 450 students, middle schools should have a base size of 624 students, and high schools should have 970 students. O.C.G.A. § 20-2-181.

"The board of education of any county shall have the right, if, in its opinion, the welfare of the schools of the county and the best interests of the pupils require, to consolidate two or more schools into one school ...O.C.G.A. § 20-2-60 (emphasis added).

In the instant case, Appellants have not presented any evidence to show that the Local Board acted either arbitrarily or capriciously in adopting the Facilities Plan. Instead, the evidence shows that the Local Board conducted studies and meetings with the citizens, obtained assistance from the State Department of Education, and adopted a plan that carries out the intentions of the General Assembly as reflected in the Quality Basic Education Act, O.C.G.A. § 20-2-130, et seq. The Local Board adopted a plan of consolidation that will bring the local system closer to the base sizes preferred by the Legislature. See O.C.G.A. § 20-2-181.

Appellants misconstrue both the burden of proof and the record in claiming that the Local Board failed to establish that there will be any educational benefits involved. Appellants had the burden of establishing that the plan was not in the best interests of the students or the welfare of the school system. Except for evidence of a difference in educational philosophy, Appellants did not present any evidence that the Facilities Plan was devoid of benefit to the students or the local school system. On the contrary, the record shows that the Facilities Plan will result in more educational opportunities for the students and increased state funding will be available to the local school system.

All of Appellants' remaining complaints about the Local Board's decision concern questions that are not proper for review. Facility costs, student transfers, suitability of existing facilities, teacher transfer, and economic impact are all matters that a local board may consider, but they do not control once the local board had decided that the reorganization or consolidation plan is in the best interests of the school system and the students. Nevertheless, the record shows that the Local Board considered each of the points raised by Appellants. Although studies were not conducted in all areas, it appears that approximate facility costs were obtained, student transfers and transportation costs were weighed in connection with the economic and social costs of the consolidation, present and future facility usage plans were developed, and all of the teachers were given an opportunity to remain employed by the school system. None of Appellants' arguments, therefore, provide any basis for reversing the Local Board's decision.

As a final issue, Appellants claim that the hearing should be conducted again because there is an appearance of impropriety on the part of the hearing officer. This issue was raised for the first time on appeal. At the hearing, the parties stipulated that the hearing officer was a disinterested member of the State Bar of Georgia and qualified to conduct the hearing. During the hearing, the hearing officer merely opened and closed the proceedings. It does not appear that the hearing officer advised the Local Board, or made any rulings that were adverse to Appellants. After the Local Board decided not to reconsider its decision, an insurance company employed the hearing officer's law firm to defend a personal injury action where the Local Board was named as a defendant. Appellants claim that because the hearing officer is now defending the Local Board in an unrelated action, there is an appearance of impropriety in the conduct of the hearing. Appellants, however, admit that no error was committed by the hearing officer in the conduct of the hearing, and that they were not injured as a result of his involvement. Even if the hearing officer was employed on a continuous basis by the Local Board, i.e., he served as the board attorney, it is doubtful that any error would have resulted. The proceeding involved a legislative matter rather than a judicial matter. It, therefore, did not have to be cloaked with the purity of a judicial proceeding. We, therefore, conclude that Appellants' arguments do not contain any basis for reversing the Local Board's decision and remanding for another hearing.

PART IV

DECISION

Based upon the foregoing, it is the opinion of this Board that the Local Board's decision was not arbitrary or capricious and was within the scope of its authority. The Local Board's decision, therefore, is hereby
SUSTAINED.

This 9th day of August, 1990.

Mr. Carrell and Mr. Sessoms were not present.

Larry A. Foster
Vice Chairman For Appeals