STATE BOARD OF EDUCATION

STATE OF GEORGIA

SARAH D.,	:	
	:	
Appellant,	:	
	:	**CASE NO. 1990-35**
	:	
V.	:	
	:	**DECISION**
CLARKE COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by Sarah D. ("Appellant") from a decision by the Clarke County Board of Education ("Local Board") to deny her request to continue attending school outside her attendance zone. The Local Board's decision is sustained.

Appellant is an eighth-grade student and is presently enrolled in the Hilsman Middle School. Her mother is a vision teacher in the special education department of the Clarke County School System. Appellant attended the Hilsman Middle School in the sixth and seventh grades.

In July, 1990, Appellant's mother underwent serious surgery that curtailed her ability to function. Because of her incapacity, the family decided to move out of their home that was being renovated. Appellant's father located an apartment and made arrangements to move. Appellant's father went to the Hilsman Middle School and changed Appellant's address to the apartment address.

After the change of address was made, the Local Board revised the middle school attendance zones. Under the revised plan, the apartment address was in the Hilsman Middle School attendance zone, but the residence was moved into the Clarke Middle School attendance

zone. At approximately the same time, Appellant's parents decided against moving out of their house, but they failed to changed Appellant's address at the Hilsman Middle School. Appellant began attending the Hilsman Middle School at the start of the 1990—1991 school year.

Appellant's mother has an office in the central administration building of the Clarke County School System. She performs itinerant services at different schools in the system as needed. Once a month, she is scheduled to work at the Hilsman Middle School, but she frequently performs some consulting at the school when she picks Appellant up at the end of the school day.

After school started, the school administration received an anonymous tip that Appellant was attending school outside her attendance zone. The administration investigated and determined that Appellant lived in the Clarke Middle School attendance zone. On September 26, 1990, the administration informed Appellant's parents that Appellant should be attending Clarke Middle School.

Appellant's father met with a representative of the Clarke County School System and explained what had occurred. He requested an exception so that Appellant could remain at Hilsman Middle School because of the provisions of O.C.G.A. § 20-2-293, which addresses out of zone attendance. He also requested a hardship exception because Appellant's mother had suffered complications from her surgery that required additional surgery and resulted in further confinement.

The Clarke County School System has an out-of-zone attendance policy in effect for its teachers. The policy permits the children to attend the school where their parent is a full-time teacher. The Local Superintendent decided that the policy did not apply to Appellant because her mother was not permanently based at the Hilsman Middle School. The hardship basis for out-of-zone attendance was not presented to the Local Superintendent.

Appellant appealed to the Local Board and requested an exception so that she could continue attendance at Hilsman Middle School because of the hardship and O.C.G.A. § 20-2-293. The Local Board voted to deny the request based upon O.C.G.A. § 20-2-293. The Local Board was evenly divided on the hardship ground, with one-half of the members in attendance Voting to grant the hardship exception and one-half voting against. Appellant then filed this appeal with the State Board of Education.

Appellant claims on appeal that the Local Board was improperly influenced by prejudicial evidence entered at the hearing. Appellant claims that the Local Board was prejudiced when it decided the hardship claim because evidence was improperly presented that Appellant's parents had attempted to evade the new attendance zone rules.

During the hearing before the Local Board, evidence was presented that many people were attempting to avoid the new attendance zones. In addition, there was evidence presented that the Local Board has a policy to process hardship exceptions, but Appellant's parents did not file a request for a hardship exception. The first time the hardship exception was officially presented was at the hearing before the Local Board. Appellant claims that the evidence that others were attempting to evade the new attendance zones prejudiced the Local Board, even though the clear evidence showed that the change of address was submitted before the attendance zones were changed and because of the severe medical problems that Appellant's mother encountered.

There is nothing in the record to indicate that the Local Board failed to approve Appellant's hardship exemption request because of any prejudice. The only evidence presented at the hearing that Appellant's parents attempted to avoid the zone attendance rules was the fact that Appellant's father failed to make a change of address when the decision was made to remain in the home that was located in the Clarke Middle School district. This evidence was presented

without objection. A closing argument was not presented on behalf of the Local School System so there was no attempt to characterize the parents' actions. The Local Board has complete discretion whether to grant a hardship exception. There is nothing in the record to indicate that the Local Board abused its discretion. We, therefore, conclude that Appellant's arguments concerning prejudice do not provide any basis to reverse the Local Board's decision.

Appellant's next argument is that the Local Board's policy concerning out-of-zone attendance by teachers' children is inconsistent with state law and the Local Board's decision cannot stand. Appellant argues that state law does not restrict out-of-zone attendance to full-time teachers.

O.C.G.A. § 20-2-293(b) provides:

> Notwithstanding the provisions of subsection (a) of this Code section or any other general law, and except as provided by the General Assembly by local law, a student shall be allowed to attend and be enrolled in the school in which a parent or guardian of such student is a full—time teacher, notwithstanding the fact that such school is not located in the local unit of administration in which such student resides. Each school system of this state shall provide procedures to implement the provisions of this subsection.

The Local Board's policy JBCC provides:

> The Superintendent shall develop regulations establishing a procedure to provide the children of school—based employees an opportunity to attend the school in which their parents are assigned....

Appellant argues that the Local Board's policy contravenes state law because it is limited to school—based employees rather than full-time teachers. Appellant maintains that the Local Board policy does not give any consideration to itinerant teachers. Appellant argues that since her mother is a full-time teacher then she should be assigned to the school of her choice. O.C.G.A. § 20-2-293(b), however, does not provide that a teacher's child has to be assigned to any school that the teacher selects within the system. Instead, the statute provides that a child can be assigned to the school where the parent is a full-time teacher. The apparent intent of the

Legislature was to permit a child to be at the same school as the parent. The facts show that Appellant's mother is not a full-time teacher at Hilsman Middle School; her schedule calls for services at Hilsman Middle School on only one day per month. The Local Board's reference to "school—based" employees does not frustrate the state law; in both instances a teacher has to be assigned to a particular school. Although Appellant's mother is a full-time employee of the Local Board, she is not a full-time employee at any particular school. Both the state law and the Local Board's policy do not address the situation of an itinerant teacher. Arguably, state law would permit the child of an itinerant teacher who lived outside the school district to attend a school within the school district, but we are not faced with that situation in this case. Here, Appellant's mother has only minimal contact with the school that Appellant wants to attend. It is our opinion that O.C.G.A. § 20-2-293(b) does not mandate the Local Board to permit Appellant to attend a school where her mother has only minimal contact.

Based upon the foregoing, we are of the opinion that the Local Board's decision was not contrary to state law, nor was there any abuse of discretion in denying the hardship exemption. There is also no evidence in the record that the Local Board was prejudiced by any evidence presented. The Local Board's decision is, therefore,

SUSTAINED.

This 21st day of February, 1991.

Larry A. Foster
Vice Chairman For Appeals