STATE BOARD OF EDUCATION

STATE OF GEORGIA

ISADORE BROWN,	:	
	:	
Appellant,	:	
v.	:	
	:	**CASE NO. 1991-34**
BLECKLEY COUNTY	:	**DECISION**
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by Isadore Brown ('Appellant") from a decision by the Bleckley County Board of Education ("Local Board") to deny his request for a waiver of the Local Board's attendance policy and grant credit to his children for the 1991-1992 school year despite their late enrollment. Appellant maintains that the Local Board's decision was arbitrary and capricious as well as unfair because it punishes his children for something beyond their control. The decision of the Local Board is reversed.

The only issue to be decided in this case is whether children should be denied entrance to the schools of Georgia when their parents move from out of state after school has started, or, if admitted, whether they should be denied credits for the year regardless of the circumstances. We think they should be admitted and given credit under the circumstances of this case.

After 22 years of military service, Appellant was forced to retire in July, 1991, when the air base he was stationed at in Sacramento, California, closed. Appellant unsuccessfully attempted to obtain employment in Los Angeles. He then learned of a possible position at Warner Robins Air Base in Warner Robins, Georgia. In late August, 1991, the family started for Georgia.

As they traveled towards Georgia, Appellant stopped and unsuccessfully applied for positions at air bases they passed along the way. Appellant arrived at Warner Robins in late September, 1991, but learned that work was unavailable at Warner Robins Air Base. Appellant then began a search for employment and a place to live. He finally located a home in Bleckley County.

Immediately thereafter, on October 21, 1991, Appellant presented his children for enrollment in the Bleckley High School. The high school principal explained to Appellant that the school system had a late enrollment policy that prohibited them from enrolling. The principal also explained that even if the children were allowed to enroll, they had missed too many days to receive credit for the year. Appellant then spoke with the Local Superintendent. The Local Superintendent said that the children could enroll since the family had established its residency

in Bleckley County, but Appellant would have to make a written request to the Local Board to ask that his children receive credit for the year. On October 23, 1991, Appellant enrolled his children in the high school.

Appellant then petitioned the Local Board to grant credit to his children. On November 14, 1991, Appellant appeared before the Local Board and explained why his children were late in enrolling. Appellant stated that his children would be willing to make up any work they had missed. Appellant also stated that if the children did not receive full credit for this year they would be ineligible for military scholarships to the armed forces academies.

After reviewing the Bleckley County Attendance Policy and taking into account that the students' records were unavailable, the Board voted unanimously to deny credit to the children for the year. Appellant then filed this timely appeal.

On appeal, Appellant maintains that the Local Board's decision to deny credit to the Students due to the late enrollment is unfair because it punishes the Students for something beyond their control. Since Appellant was not represented by an attorney, we treat this as an appeal from an arbitrary and capricious decision.

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 (Ga. SBE, 1976)

The Local Board argues that its decision was not arbitrary and capricious. The Local Board points out that the State Board of Education determined that local boards of education have the authority to deny course credit for excessive absences in Edward E. v. Effingham Cnty. Ed. of Educ., Case No. 1985-5 (Ga. SEE, July 11, 1985); Netra Wymbs v. Clarke Cnty. Bd. of Educ., Case No. 1986-36 (Ga. SEE, Nov. 13, 1986), and Melvina D. v. Bryan Cnty. Ed. of Educ., Case No. 1987-34 (Ga. SBE, Nov. 12, 1987). The Local Board argues that there were rational reasons for the attendance policy and that its decision conforms with State policy and procedure.

The attendance policy set forth in the student handbook provides that:

> [N]o student shall enroll in any school after the 20th day unless transferring from another school or for reasons beyond the individual's control, which have been approved by the board prior to enrollment...

The attendance policy, therefore, permits a student to enroll after the 20th day if the Local Board approves. There is nothing, however, in the attendance policy that indicates that Carnegie credits will be denied if a student enrolls after the 20th day. The attendance policy itself only governs whether students will be permitted to enroll in school after the 20th day. In this case, the children were allowed to enroll. The attendance policy, therefore, is not an issue in this appeal.

In each of the cases cited by the Local Board, the local policy was specific concerning the effect of absences and the grant of Carnegie credits. In each case, the students were enrolled and absented themselves from school for various reasons. In those instances, the State Board of Education held that the local boards had the power to establish policies that governed the granting of Carnegie credits. In the instant case, however, the policy does not establish any standards of attendance. Local Board Policy IHF provides that "Carnegie units will be awarded for courses of study based on 150 clock hours of instruction ...." The policy is otherwise silent about the effect of absences, late enrollment, or transfers from another school system. Arguably, the policy establishes a standard of a minimum of 150 hours of attendance in a class before a Carnegie credit is granted. The Local Board did not make this argument and it is set forth only as one interpretation that could be made. Just as reasonable is an interpretation that 150 hours represents the base number of hours, and, since it is a base number, it can be adjusted upward or downward. We, therefore, conclude that the Local Board's Policy IHF does not cover the circumstances presented by this case and the decision whether to grant Carnegie credits is based solely upon the discretion of the Local Board.

The Local Board considered three issues when it decided to deny the credits. First, the Local Board felt that the children would be unable to make up the work within a specified time. There was, however, no evidence to support a decision on this concern.

The second issue discussed by the Local Board was that students had been denied credits when absent for 16 days, even though they attended intermittently during the fully nine week period. The Local Board had never faced the issue of a late enrollment that resulted from a transfer from another state. Appellant's children cannot be compared to a student who has been enrolled in classes and is absent for 16 days. The denial of credits when a student has been enrolled in class is a punitive measure designed to encourage attendance. In this instance, the children did not do anything for which they should be punished.

Finally, the Local Board decided not to grant the credits because "a concerted effort to attend classes and complete work successfully enables our students to function most effectively." While the statement may be true as a general statement, it is wholly inapplicable to Appellant and his children. The family did not leave California until after school had already started in Bleckley County. The children certainly could not have enrolled at the beginning of the year. By the time they arrived in Georgia, 20 school days had already elapsed. When they arrived in Georgia, they were in Warner Robins, Georgia, and surely would have been denied entrance in the Bleckly County School System. The children could not have made a more concerted effort to attend classes and complete work successfully than they have attempted. We can, therefore, only conclude that the Local Board's decision was arbitrary and capricious.

It is the public policy in Georgia for students between the ages of 7 and 16 to receive a mandatory education. O. C. G. A. § 20-2-690.1. The Local Board's decision does nothing to enhance public policy. Instead, the Local Board's decision thwarts public policy by denying the children credits for the year because it is obviously futile for a student to enroll in school, attend classes and complete assigned work when credit will not be given to him or her. If the children

in this case, and students in similar situations in the future, are denied these credits at the outset of their application for enrollment, despite their willingness and capability to make up the work, they remain out of school for a full year, fall behind other students their age and perhaps suffer other negative consequences. Thus, we are of the opinion that the Local Board's decision also contravenes public policy as well as being arbitrary and capricious.

Based upon the foregoing, the record received and the briefs submitted, the State Board of Education is of the opinion that the Local Board's decision to deny Appellant's request to grant his children the ability to earn Carnegie credits for the 1991-1992 school year was arbitrary and capricious and against public policy. The decision of the Local Board, therefore, is

REVERSED.

This 12th day of March, 1992.

Mr. Brinson was absent.

James H. Blanchard
Vice Chairman for Appeals