

STATE BOARD OF EDUCATION

STATE OF GEORGIA

C. K. F. and R. J. K.,	:	
	:	
Appellants,	:	
	:	CASE NO. 1994-73
vs.	:	
	:	DECISION
PEACH COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by C. K. F. and R. J. K. (Students) from a decision by the Peach County Board of Education (Local Board) to uphold the Local Systems' s decision that the Students were guilty of cheating on an examination, which resulted in a zero grade on the examination for both Students. We dismiss the appeal because we conclude that the awarding of grades does not involve the administration or interpretation of school law, thus denying jurisdiction to the State Board of Education to decide the appeal.

O.C.G.A. § 20-2-1160 provides that local boards of education may serve as tribunals to decide questions "of local controversy in reference to the construction or administration of the school law...." O.C.G.A. § 20-2-1160(a). Any person adversely affected by a local board' s decision on the administration or interpretation of school law can appeal to the State Board of Education. O.C.G.A. § 20-2-1160(b). In the absence of a question of local controversy involving the administration or interpretation of school law, the State Board of Education does not have jurisdiction to review the local board' s decision. See. Boney v. County Board of Education of Telfair County, 203 Ga. 152, 45 S.E.2d 442 (1947).

In this case, the Students were given zero grades on an examination because the teacher concluded they had cheated on the examination based upon her observations, the comments of other students who sat near the two Students, and her analysis of the test answers. At the time of the incident, the Students were in the eighth grade. The Students, through their parents, requested a hearing before the Local Board to protest the teacher' s action. Following a closed hearing, the Local Board agreed with the teacher' s actions.

On appeal, the Students argue that the prohibition against cheating while taking an examination is such a fundamental concept of attending school that it is part of the common school law. Because common school law is involved, the Students argue that the State Board of Education has jurisdiction to consider the Local Board' s decision.

The State Board of Education, however, has taken the position that the issuance of grades is an administrative matter to be handled by local boards of education, and that there is no interpretation or administration of school law involved in issuing grades. See. Howell v. Beckley Cnty. Bd. of Educ., Case No. 1988-41, (Ga. SBE, Dec. 8, 1988). The issuing of grades is not

covered in Title 20 of the Official Code of Georgia Annotated, or in the regulations issued by the Georgia Department of Education. Except in those instances where the issuance of grades involves the interpretation of some policy, such as whether students are given grades on days they are absent, the issuing of grades is an administrative matter that is part of a local board's responsibility in managing and controlling the school systems within their jurisdiction. The principle of not cheating while taking an examination is not peculiar to the school setting such that it can be deemed to be a matter of school law. We conclude, therefore, that the issuing of grades remains an administrative matter that is best left with local boards of education to conclude.

The Students also argue that since the Local Board conducted a hearing and made a decision, an appeal can be taken to the State Board of Education under the provisions of O.C.G.A. § 20-2-1160. "The State Board of Education, being a body of limited jurisdiction, however, cannot assume jurisdiction in a matter which is outside its statutory responsibility even if the parties agree to such jurisdiction. See, e.g. Smith et al. v. Upshaw, 127 Ga. 703 (1962)." Henderson et al. v. Fulton Cnty. Bd. of Educ., Case No. 1976-17 (Ga. SBE, 1977). Thus, neither party can confer jurisdiction upon the State Board of Education by waiver or any other action.

The results in this case are not changed if the view is adopted that giving a student a zero on an examination is a form of disciplinary action that the State Board of Education can review. "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, Sep. 8, 1976)." Roderick J. v. Hart Cnty. Bd. of Educ., Case No. 1991-14 (Ga. SBE, Aug. 8, 1991). In this case, there was evidence from which the Local Board could conclude that the Students cheated on the examination, and the granting of a zero grade on one examination for cheating is not arbitrary or capricious.

Based upon the foregoing, it is the opinion of the State Board of Education that the issuance of grades does not involve the administration or interpretation of school law and it, therefore, lacks jurisdiction to review the decision of the Local Board. The appeal, therefore, must be and is hereby
DISMISSED.

This 9th day of March, 1995.

Mr. William Teasley was not present.

Robert M. Brinson
Vice Chairman for Appeals

