

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>MICHAEL R. and SAMANTHA D.,</b>	:	
	:	
<b>Appellants,</b>	:	
	:	<b>CASE NO. 1995-35</b>
<b>vs.</b>	:	
	:	<b>DECISION</b>
<b>GWINNETT COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	

This is the combined appeal of Michael R. (Michael) and Samantha D. (Samantha) (also collectively referred to as Students) from a decision of the Gwinnett County Board of Education (Local Board) to uphold the decision of a Student Disciplinary Tribunal to suspend Michael until January 17, 1996, because he was found guilty of supplying and selling drugs on campus, and to suspend Samantha until June 8, 1996, because she was found guilty of selling drugs on campus. The Students claim numerous violations of their due process rights. The Local Board has moved to dismiss the appeals because they were not timely filed.

The Local Board made its decision on April 18, 1995. The Students were notified of the decision by letter dated April 20, 1995. In addition to notice of the decision, the Students were informed that they had thirty days from the date of the decision to file an appeal with the Local Superintendent. The Students mailed their appeals to the Local Superintendent on May 18, 1995, and the Local Superintendent received them on May 22, 1995, which was thirty-four days after the Local Board's decision.

O.C.G.A. § 20-2-1160(b) provides that an appeal from the decision of a local board of education "shall be filed with the superintendent within 30 days of the decision of the local board ... If an appeal is filed late, then the State Board lacks jurisdiction to consider the appeal and it will be dismissed. See Josh D. v. Gwinnett Cnty. Bd. of Educ., Case No. 1991-15 (Ga. SBE, June 13, 1991). The Students claim that their appeal was filed on time because it was mailed on the thirtieth day and the statute does not prohibit mailing. The plain wording of the statute, however, requires the appeal to be filed with the local superintendent within thirty days; it does not provide that an appeal can be mailed and considered to be filed with the local superintendent on the date of mailing. We, therefore, conclude that a timely appeal under the provisions of O.C.G.A. § 20-2-1160 must be physically in the hands of the local superintendent, or his designee, by the thirtieth day after the local board makes its decision. Accordingly, the appeals filed by the Students were late and must be, and hereby are, **DISMISSED.**

This 14<sup>th</sup> day of September, 1995.

Mr. McGlamery and Dr. Thomas were not present. The seat for the Tenth District is vacant.

Robert M. Brinson  
Vice Chairman for Appeals