

STATE BOARD OF EDUCATION

STATE OF GEORGIA

C.R.,	:	
	:	
Appellant,	:	
	:	CASE NO. 1996-49
vs.	:	
	:	DECISION
EVANS COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by C. R. (Student) from a decision by the Evans County Board of Education (Local Board) not to allow her to graduate from the eighth grade because of excessive absences during the 1995-1996 school year. The Student claims that the attendance policy is vague, that her absences were excused, and that an injustice will occur if she is retained in the eighth grade. The Local Board's decision is reversed.

The Local Board's attendance policy for elementary and middle school provides:

A student is allowed to miss only twenty (20) days per school year in kindergarten through eighth grades. Any student missing twenty (20) or more days per school year is subject to be retained in their present grade. A committee consisting of the school principal, counselor ..., the student's teacher/s, the social services coordinator, and superintendent or designee will meet during the last week of the school year and decide if students who have missed twenty (20) or more days will be promoted.

Evans County Schools Student Handbook, p. 15.

The Student was absent from school twenty-four (24) days during the 1995-1996 school year. She had medical excuses for nine days and parent excuses for thirteen days. All of the excused absences were due to severe menstrual pains. Under other provisions of the Local Board's policy, a student receives a zero whenever an absence is not excused. There was testimony that even with her absences, the Student was able to pass all of her courses.

The policy adopted by the Local Board for the elementary and middle school is clear in providing that if a student misses twenty or more days, whether the absences are excused or unexcused, the student is subject to not being promoted. There has not, however, been any showing by the Local Board why the Student should not be promoted.

"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, 242 S.E.2d 374 (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). There was evidence in the record that showed that the Student was absent for more than twenty days and had two unexcused absences, but the record also shows that the Student was able to pass all of her courses. Except for the two unexcused absences, all of her absences were excused. In the absence of any showing by the Local Board why the Student should be retained in the eighth grade, we conclude that the Local Board's decision was arbitrary and capricious.

Based upon the foregoing, it is the opinion of the State Board of Education that even though there was evidence to support the Local Board's decision, the decision was arbitrary and capricious because there was no showing that retaining the Student in the eighth grade would serve any educational purpose. The Local Board's decision, therefore, is REVERSED.¹

This 14th day of November, 1996.

Robert M. Brinson
Vice Chairman for Appeals

¹ The State Board of Education's Vice-Chairman for Appeals issued a supersedeas order staying the Local Board's decision, which permitted the Student to go into the ninth grade for the 1996-1997 school year. The effect of this decision is that the Student will remain in the ninth grade.