

THE STATE BOARD OF EDUCATION, STATE OF GEORGIA

MRS. TRICIA N. PARKER

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vs.

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CASE NO. 1975-3

GWINNETT COUNTY BOARD OF  
EDUCATION

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ORDER


Mrs. Tricia N. Parker, mother of David Parker, filed an appeal to the State Board of Education contending that the Gwinnett County Board of Education abused its discretion in refusing to hear the question and in refusing to admit David Parker to the Gwinnett County School System. The appellant contended that even though David would not be six until January 16, 1975, his psychological evaluation and tests showed that he was superior in intelligence and his social, physical and psychomotor development was adequate for such placement. The Gwinnett County Board of Education has a rule that no child shall be admitted to the first grade who is not six on or before December 31st. The record shows that the appellant appeared before the Gwinnett County Board of Education on November 12, 1974, requesting special consideration be given David and her request for early admission. The Gwinnett County Board of Education denied Mrs. Parker's request and on January 14, 1975, refused reconsideration.

Mrs. Parker filed a Notice of Appeal to the State Board of Education. The record on appeal clearly shows the decision of the Gwinnett County Board of Education was a policy determination and administrative in nature and not a local controversy judicial or quasi-judicial in nature which is appealable to the State Board of Education.

The State Board of Education does not have jurisdiction to hear a non-judicial appeal unless it is clear from the record on appeal that the local board of education has abused its discretion in matters of administration or policy determination. Boney v. Board of Education of Telfair County, 203 Ga. 152(1947).

Upon review of the record, we find no abuse of discretion of the Gwinnett County Board of Education in the adoption of this rule or in the application of it in this case. Therefore, the State Board of Education does not have jurisdiction to hear this appeal and it is, accordingly, dismissed.

This the 13th day of March, 1975.

  
Richard Neville  
Vice-Chairman of Appeals  
State Board of Education of Georgia

It is noted, however, that even if the Gwinnett County Board of Education was found to have abused its discretion, the record and appeal did not reach the State Board of Education until February 20, 1975, and a decision favorable to the appellant would have come too late. For this reason, the appeal appears to be moot.