

STATE OF GEORGIA

CASE NO. 1980-17

LARRY A. FOSTER
Acting Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

HARMON BENNETT, et al.	:	CASE NO. 1980-17
as THE CONCERNED CITIZENS	:	
OF CANON, GEORGIA,	:	
	:	
Appellants,	:	
	:	
vs.	:	REPORT OF
	:	
FRANKLIN COUNTY BOARD OF	:	HEARING OFFICER
EDUCATION,	:	
	:	
Appellee.	:	

PART I

SUMMARY OF APPEAL

This is an appeal by a group of citizens from Canon, Georgia (hereinafter "Appellants") who are in disagreement with a decision of the Franklin County Board of Education (hereinafter "Local Board") to close the elementary school located in Canon because of an insufficient number of students. Appellants maintain that the Local Board's decision was arbitrary and constitutes such an abuse of discretion that it should be reversed by the State Board of Education. The Hearing Officer recommends that the decision of the Local Board be sustained.

PART II
FINDINGS OF FACT

Following the recommendations made by an evaluation committee from the State Department of Education, the Local Board voted, on October 30, 1979, to close the Canon Elementary School because the average daily attendance ("ADA") at the school was less than recommended by the State Department of Education. On April 15, 1980, Appellants requested a hearing before the Local Board to protest the closing of the school. The Local Board conducted the hearing on May 20, 1980. Testimony was received and recorded, and Appellants were represented by counsel. At the conclusion of the hearing, the Local Board voted to reaffirm its October 30, 1979 decision to close the Canon Elementary School. Appellants then appealed to the State Board of Education on June 18, 1980.

The Local Board did not make any findings of fact. The record submitted, however, shows that the Canon Elementary School has had an ADA of approximately 125 during the past few years. The physical facility was constructed in 1955 and contains seven (7) classrooms, a library, and a small teachers' lounge in approximately 13,500 square feet of space. The facility is located upon approximately four (4) acres of land with good recreation facilities. The

facility is centrally located, but far enough from the main highway to remove the students from any traffic dangers. The parents have supported the school by contributing between eighteen and twenty thousand dollars (\$18,000-20,000) of building improvements and instructional aids. It was estimated that the new replacement cost of the building structure would approach \$500,000.00.

The Local Board's action requires the students to be bused from Canon to the elementary school located in Royston, Georgia. The Royston facility will have to be expanded by 8,000 square feet in order to accomodate the Canon students. The school facility is located within the City of Royston and has limited recreational facilities.

Because of the low ADA, the Local Board does not receive State funds for several positions at the Canon school. Additionally, the small student population does not permit extra programs and services to be provided to the Canon students although the programs and services are available in the other elementary schools.

PART III

CONCLUSIONS OF LAW

Appellants contend that the Local Board abused its discretion in deciding to close the Canon Elementary

School and bus the children to Royston. They base their contentions on the facts that the Canon facility is in good condition, is away from the main highway, and there is adequate room for recreation and growth. They also contend that the Local Board has neglected to enforce attendance district standards and thereby caused the ADA at the Canon school to be lower than recommended by the State Department of Education. Appellants argue that if the Local Board would re-align the attendance zone rules, the ADA at Canon would be raised to the requisite level and thus avoid the costs of expanding the Royston school and the loss caused by the abandonment of the Canon school. Additionally, the Canon students would not have to be bused and placed in an overcrowded situation where limited recreation facilities exist.

The Local Board, however, points out that the Canon school did not earn one teacher per grade, a principal, or a librarian because of its limited enrollment. As a result, the Local Board incurred substantial operating expenses. The limited enrollment also prevented the offering of special programs to the students. The Local Board, therefore, decided it was economically feasible and better for the children involved to close the Canon Elementary School.

A local board of education is granted broad discretion in the operation of the schools within its

jurisdiction. Ga. Code Ann. §32-915 provides:

"The board of education of any county shall have the right, if, in their opinion the welfare of the schools of the county and the best interests of the pupils require, to consolidate two or more schools into one school, to be located by said board at a place convenient to the pupils attending the same, the schoolhouse to be located as near the center of the district...as practicable."

In the absence of a gross abuse of discretion, the decision of a local board of education will not be disturbed by the courts. Davis v. Jarriel, et al., 223 Ga. 624 (1967); Boney v. County Board of Education of Telfair County, 203 Ga. 152 (1947).

In the instant case, there does not appear to be such an abuse of discretion that the decision of the Local Board should be reversed. Appellants have demonstrated their concern for the Canon school and for their children. As Appellants point out, there are other avenues available to the Local Board. The Local Board, however, has considered Appellants' arguments, the continued cost of operating the Canon school, the costs of transportation and building, the programs available through consolidation, and the recommendations of the evaluation teams from the State Department of Education. After considering all of these factors, the Local Board made a decision which was not popular with Appellants, but such unpopularity does not result in a

showing of an abuse of discretion. It has not been shown that the Local Board's solution will result in the needless expenditure of tax dollars or the lowering of the quality of education for the students. It has not been shown that the Local Board made its decision in a vacuum without considering alternative courses of action. Although prudent persons might be given the same data and arrive at different conclusions, the fact that one conclusion might be better than the other does not result in either conclusion being deemed an abuse of discretion. In order for there to be an abuse of discretion, the record must show that the decision was patently erroneous, that the decision-maker failed to consider certain material facts, or was operating from a self-interest view. Such does not appear to be the situation in the instant case. The Hearing Officer, therefore, concludes that the decision of the Local Board did not constitute an abuse of discretion.

PART IV

RECOMMENDATION

Based upon the foregoing findings and conclusions, the record submitted, and the briefs and arguments of counsel, the Hearing Officer is of the opinion the decision of the Local Board was made with lawful authority and did

not constitute an abuse of discretion. The Hearing Officer, therefore, recommends that the decision of the Franklin County Board of Education be sustained.

L. O. Buckland
L. O. BUCKLAND
Hearing Officer