

STATE BOARD OF EDUCATION

STATE OF GEORGIA

ELAINE BRYANT,	:	
	:	
Appellant,	:	
	:	
v.	:	CASE NO. 1980-24
	:	
FULTON COUNTY BOARD OF	:	
EDUCATION,	:	
	:	
Appellee.	:	

O R D E R

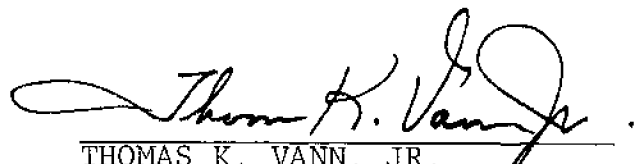
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

DETERMINES AND ORDERS, that the Findings of Fact and Conclusions of Law of the Hearing Officer are made the Findings of Fact and Conclusions of Law of the State Board of Education and by reference are incorporated herein, and

DETERMINES AND ORDERS, that the decision of the Fulton County Board of Education herein appealed from is hereby affirmed.

Mr. Stembridge was not present.

This 13th day of November, 1980.

  
THOMAS K. VANN, JR.  
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

ELAINE K. BRYANT,	:	CASE NO. 1980-24
	:	
Appellant,	:	
	:	
vs.	:	REPORT OF
	:	
FULTON COUNTY BOARD OF	:	HEARING OFFICER
EDUCATION,	:	
	:	
Appellee.	:	

PART I

SUMMARY OF APPEAL

This is an appeal by Elaine K. Bryant, a resident of the Rico Elementary School attendance area (hereinafter "Appellant"), from a decision of the Fulton County Board of Education (hereinafter "Local Board") to close the Rico Elementary School due to low attendance. The appeal cites that the closing of the school is not in the best interests and welfare of the students presently attending the Rico Elementary School. The Hearing Officer recommends that the decision of the Local Board be sustained.

PART II

FINDINGS OF FACT

On April 8, 1980, the Local Board considered a recommendation of the professional staff to close the Rico Elementary School and move the students to the Cedar Grove and Charles E. Riley Elementary Schools. A public meeting concerning the closing was held on April 29, 1980 at which time the citizens of the schools to be affected by the closing and transfer of students had an opportunity to voice their opinions. The Local Board thereafter received the recommendation to close the Rico Elementary School and, on June 10, 1980, voted to close the school. Appellant appealed to the State Board of Education on July 7, 1980. After the appeal was filed, the parties entered into a stipulation of facts. The stipulation provided that the Local Board decided to close the Rico Elementary School because:

- a. It is the smallest school in the State of Georgia;
- b. The enrollment was less than half of the ideal capacity of the facility;
- c. A further decline in enrollment was projected;
- d. The per pupil cost of educating a student at Rico Elementary was \$2,131.73, compared with a system average per pupil cost of \$1,620.55;

- e. Consolidation of schools reduced the likelihood of two grades being taught in one class and of the students having the same teacher for two years in a row; and
- f. The kindergarten children of Rico Elementary were already attending Cedar Grove Elementary School.

### PART III

#### CONCLUSIONS OF LAW

Appellant argues that the decision of the Local Board was improper because the population of the Rico Elementary district will increase in the future, thus necessitating the building of another school; the school has community support, and the school is unique. None of these positions establishes any basis for setting aside the decision of the Local Board.

The control and management of the schools rests with the local boards of education. Ga. Const. Art. VIII, Sec. V; (Ga. Code Ann. §2-5301, 2-5302); Ga. Code Ann. §32-901, 32-915, 32-954. The decision of the local boards of education will not be interfered with unless there is a showing of a clear abuse of discretion. See, e.g. Davis v. Jarriel, 223 Ga. 624 (1967). In the instant case, there has not been any showing that the Local Board abused its discretion. The decision was made based upon certain facts

made available to the Local Board. Contrary arguments were also made by Appellant and other citizens of the affected schools. The Local Board did not make its decision without obtaining information that indicated that the facility should be closed. The Hearing Officer, therefore, concludes that the Local Board did not abuse its discretion by deciding to close the Rico Elementary School.

#### 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 that the Local Board did not abuse its discretion by deciding to close the Rico Elementary School. The Hearing Officer, therefore, recommends that the decision of the Fulton County Board of Education be sustained.

  
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L. O. BUCKLAND  
Hearing Officer