

STATE BOARD OF EDUCATION

STATE OF GEORGIA

WILBUR B., ET AL., :
Appellant, :
v. : CASE NO. 1980-33
DECATUR 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 appeal herein is moot and is therefore dismissed.

Mr. Stembridge was not present.

This 8th day of January, 1981.


THOMAS K. VANN, JR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

WILBUR B., CLEATUS B.,	:	
JAMES C., KENNETH J.,	:	
and ISAAC L.,	:	
	:	
Appellants	:	CASE NO. 1980-33
v.	:	
	:	REPORT OF
DECATUR COUNTY BOARD	:	HEARING OFFICER
OF EDUCATION,	:	
	:	
Appellee	:	
	:	

PART I

SUMMARY OF APPEAL

This is an appeal by five students, Wilbur B., Cleatus B., James C., Kenneth J., and Isaac L. (herinafter referred to as "Appellants") from a decision of the Decatur County Board of Education (herinafter "Local Board") to suspend them from high school during the fall quarter of 1980, following a determination that they had been in possession of alcoholic beverages while engaged in a school activity. Appellants complain that they were denied due process because they were not given proper notices before the suspension imposed on them by the principal prior to the hearing by the Local Board. The Hearing Officer recommends that the appeal be dismissed as moot.

PART II
FINDINGS OF FACT

On August 10, 1980, the Bainbridge High School football team was taken by the coaching staff to a football clinic on the campus of Troy State University. On Tuesday night following their arrival, the coaches discovered some of the boys drinking beer and malt liquor in their room late at night when they were supposed to be in bed sleeping. The Local Board had a policy which provided that no student could possess, sell, use, or be under the influence of any alcoholic beverage or intoxicant while off the school grounds at a school activity or function or subject to the jurisdiction of school authorities. The coaches conducted an investigation and determined that fourteen of the football players had purchased, drank, or were in possession of the beer or malt liquor.

The investigation was continued during the remainder of the week and the team returned to Bainbridge on Friday, August 15, 1980, without any punitive action being taken. The incident was reported to the Local Superintendent on Saturday, August 16, 1980. The Superintendent, Principal, and Head Coach decided that a meeting of the parents and the involved students would be held on Monday, August 18, 1980. The Superintendent and Principal conducted a limited investigation

on Saturday and Sunday by talking with some of the involved students and their parents. On Monday afternoon, the involved students were told at 6:00 p.m. that there would be a meeting at 8:00 p.m. which they and their parents needed to attend so that the incident could be discussed.

The fourteen involved students and some of the parents of the students attended the August 18, 1980, meeting. At the meeting, the principal explained to the parents what had taken place during the football clinic. The parents were also told that the boys were being dropped from the football team and would be suspended from school until the Local Board could hold a hearing on the matter on September 16, 1980. The parents were told that a recommendation would be made to the Local Board to suspend the students for the remainder of the quarter.

Written notification of the Local Board hearing was sent to the parents of the students. The notices contained the charges, the hearing date, a list of the names of the witnesses who would be testifying, and notice of the right to be represented by counsel.

A hearing before the Local Board was held on September 16, 1980. The hearing fell on the eleventh day of Appellants' suspension. The Local Superintendent testified that Appellants could have attended school on the eleventh day of their suspension, but the notices sent to the parents indicated otherwise.

Appellants, therefore, were suspended for eleven days before they had a hearing before the Local Board.

The Local Board received testimony and decided to suspend Appellants and the nine other students for the remainder of the quarter. Appellants were able to re-enter school at the beginning of December, 1980. No entry concerning the suspension appears in the students' transcripts.

PART III

CONCLUSIONS OF LAW

Appellants argue that they were denied due process because they were given improper notice before the initial meeting with the parents when the pre-hearing suspension period began. Appellants maintain they should have been given written notice of the charges, notice that they had the right to counsel and a right to examine and cross-examine witnesses before the initial suspension. They reason that the initial suspension was long-term because it was for eleven days. Additionally, they argue that the Local Board has a history of always following the recommendation of the principal concerning suspension. The initial suspension by the principal, therefore, was tantamount to suspending them for the remainder of the quarter. The appeal does not go beyond the due process arguments related to the initial meeting with

the parents and no objections were made concerning the conduct of the hearing before the Local Board.

The issues raised in the instant case are moot because the suspension period has been completed and Appellants were able to return to the school at the beginning of December, 1980. Appellants maintain that the issues are not moot because the suspension will appear on their school records. This allegation, however, is not supported by the evidence presented at the hearing before the Local Board. On the contrary, the Superintendent testified that suspensions are not placed on the students' transcripts. The Hearing Officer, therefore, concludes that the issues raised by Appellants are moot and the appeal should, therefore, be dismissed.

Even if the issues were not deemed to be moot, there are other reasons for upholding the decision of the Local Board. The first basis for upholding the decision is the fact that none of the issues raised on appeal were raised at the hearing before the Local Board. Questions were asked about the amount of notice given to Appellants prior to the initial suspension, but Appellants did not make any motions to dismiss the proceedings or take any other action based on the alleged procedural errors. If an issue is raised for the first time on appeal, the State Board of Education will not consider the issue and will not disturb the decision of the Local Board.

See, Hobby v. Tift County Bd. of Educ., Case No. 1977-6.

The very basis of the appeal is that due process requires more notice than Appellants received before the initial meeting. Appellants argue that the holding of Goss v. Lopez, 419 U.S. 565 (1975) requires more formalized proceedings than were used. Goss v. Lopez, however, merely sets forth the requirements that for short term suspensions, the student should be given notice of the charge and the evidence available, and an opportunity to present an explanation. The Court was reviewing a ten-day suspension and commented that longer suspensions might require more formalized proceedings. In the instant case, Appellants had notice they were being charged with possession of alcohol, they were given an opportunity to explain, and they were aware of the available evidence. The suspension period went into the eleventh day, but the additional day did not create any additional burdens on Appellants. The Hearing Officer, therefore concludes that the appeal has not raised any basis for reversing the Local Board.

PART IV
RECOMMENDATION

Based upon the foregoing findings, conclusions, the record submitted, and the arguments and briefs of counsel, the Hearing Officer is of the opinion that Appellants were not denied any due process rights to which they were entitled and the Local Board properly reached its decision to suspend Appellants after proper notification. The Hearing Officer, is also of the opinion that the issues raised by the appeal are moot. The Hearing Officer, therefore, recommends that the appeal be dismissed.

L. O. Buckland

L. O. BUCKLAND
Hearing Officer