

STATE BOARD OF EDUCATION

STATE OF GEORGIA

ROBERT C. LANSFORD,
Appellant,

)
)

v.

)

CASE NO. 1984-2

THE BOARD OF PUBLIC EDUCATION FOR THE
CITY OF SAVANNAH AND COUNTY OF
CHATHAM,

)

Appellee.

)

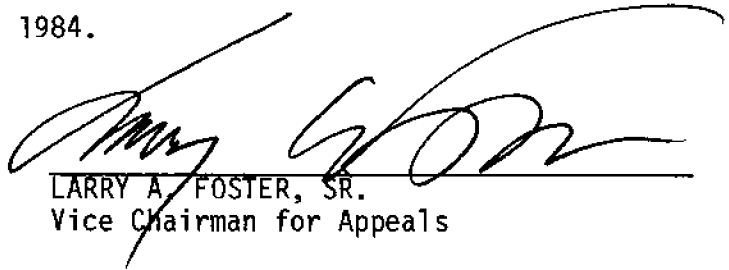
O R D E R

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 Chatham County Board of Education herein appealed from is hereby dismissed because the State Board lacks jurisdiction in this matter.

This 8th day of November, 1984.



LARRY A. FOSTER, SR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

ROBERT C. LANSFORD,)	
)	
Appellant,)	
)	
v.)	CASE NO. 1984-2
)	
THE BOARD OF PUBLIC EDUCATION)	
FOR THE CITY OF SAVANNAH AND)	
COUNTY OF CHATHAM,)	
)	
Appellee.)	REPORT OF HEARING OFFICER

PART I

SUMMARY OF APPEAL

This is an appeal from a decision by the Board of Public Education for the City of Savannah and County of Chatham (hereinafter "Local Board") not allowing Robert C. Lansford (hereinafter "Appellant") to be heard at a meeting held by the Local Board. Appellant intended to contest at the meeting that members of the school administration had taken his personal papers from his former office at the Savannah Vocational Technical School, had refused to return them, and that he is entitled to have them back. This appeal is filed under O.C.G.A. § 20-2-1160. Appellant urges the State Board of Education to remand the case and require the Local Board to hear Appellant, and such other and further relief as may be appropriate. The Local Board contends that no hearing at the local level has occurred, that no transcript exists from the local level, that

the appeal does not involve a local controversy in reference to the construction or administration of school law, and therefore the appeal should be dismissed. The Hearing Officer recommends the appeal be dismissed.

PART II

FINDINGS OF FACT

No record of a hearing by the Local Board has been forwarded to the State Board of Education by the Local Superintendent. Thus, no record exists before this Hearing Officer, certified as true and correct by the Local Superintendent, as to whether a hearing under § 20-2-1160 has been granted or denied Appellant. Additionally, the pleadings of the parties do not agree as to whether a hearing has been requested under § 20-2-1160. The Appellee contends no decision was made by the Local Board except to declare the Appellant out of order during the progress of an informal board meeting and that no hearing was requested by Appellant. Appellee's brief states that he had requested time on the agenda at a meeting of the Local Board.

PART III

CONCLUSIONS OF LAW

O.C.G.A. § 20-2-1160 provides that the Local Board shall constitute a tribunal for hearing and determining any matter of local controversy in reference to the construction or administration of the school law, and entitles any party aggrieved by a decision of a local board on a contested issue after a hearing

to the right to appeal to the State Board of Education. The section requires the appeal to be filed with the local superintendent and imposes a duty upon the local superintendent to transmit a copy of the appeal, together with the transcript of evidence and proceedings, the decision of the local board, and other matters in the file relating to the appeal, to the State Board. The State Board is authorized to adopt regulations governing the proceedings before it.

A threshold requirement for the State Board to decide an appeal is that a disputed issue be heard and decided by a local board. See, Boney v. County Bd. of Ed., 203 Ga. 152 (1947); Owen v. Long Co. Bd. of Ed., 245 Ga. 647 (1980). The State Board is limited to consideration on appeal of the testimony previously considered by a local board. See, Boney, supra. In the instant appeal, the Local Superintendent has not submitted any record, or decision of the Local Board certified as true and correct. This Hearing Officer takes no position as to whether Appellant is entitled to be given a hearing by the Local Board. However, Appellant is not, under the circumstances presented, entitled to appeal to the State Board. It appears that the Local Board takes the position that no hearing under § 20-2-1160 has occurred, and because no hearing has occurred, the Local Superintendent is not required to certify to the record that any such hearing has occurred. Further, the Local Board argues that no decision has been made and no appeal

can be had. Without a record below, even if the record consisted of a certification by the Local Superintendent that the Local Board's decision was to deny Appellant a hearing, the State Board cannot make a determination. If the Appellant is convinced of his right to an appeal, then his remedy is to seek a mandamus to force the Local Superintendent to submit a record, if one exists, or to force the Local Board to give him a hearing, if he is entitled to a hearing. The Superintendent and Local Board would have the opportunity to defend such an action on the merits.

PART IV

RECOMMENDATIONS

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 appeal should be dismissed because the State Board of Education lacks jurisdiction in the absence of a hearing by the Local Board.



L. O. BUCKLAND
State Hearing Officer