

STATE BOARD OF EDUCATION
STATE OF GEORGIA

JIM M.,	:	
	:	
Appellant,	:	CASE NO. 1987-19
v.	:	
	:	
BULLOCH COUNTY BOARD	:	DECISION
OF EDUCATION,	:	
	:	
Appellee.	:	

PART I

SUMMARY

This is an appeal by Jim M. (hereinafter "Student") from a decision of the Bulloch County Board of Education (hereinafter "Local Board") to withhold credit from the Student and to suspend the Student for eight days. The Student contends on appeal that the denial of credit was arbitrary and capricious, beyond the authority of the Local Board, and too harsh. The Student contends on appeal that the Local Board's decision that the Student be suspended for four days and given four days of detention should be reversed because the principal failed to comply with Local Board rules and because the Student was punished for failure to attend Saturday School when the Student did not have adequate transportation to Saturday School.

PART II

FACTUAL BACKGROUND

The Student is a nineteen year old male who was denied credit for English III and U.S. History because he missed eleven classes in one semester from those two subjects. The

Local Board has a policy of denying credit for subjects if a student misses class for more than ten days in the subject. The Local Board does provide for a hardship committee which has the authority to restore credit even though the ten day rule is violated.

The hardship committee met and denied the Student's appeal for reinstatement of credit and the Student appealed that denial to the Local Board.

The Local Board held a hearing at which the members of the hardship committee testified that the Student and his father did not present any extenuating circumstances to the committee which they felt justified reinstating the Student's credit.

The testimony before the Local Board did show that the Student had eleven absences in the two classes for which credit was denied. Out of those eleven absences, four were unapproved, unexcused absences. Three of those four absences were the result of the Student's suspension for fighting.

The Local Board's Student Handbook provided in part:

NOTE: In the event of an appeal, if all absences are either excused absences or approved unexcused absences, the likelihood of restoration of credit is great. However, if even one absence is classified as an unapproved unexcused absence, the likelihood of restoration of credit is lessened substantially.

At the close of the hearing concerning the denial of credit, the Local Board voted to deny the Student credit for the two classes in which he missed eleven days.

The Local Board then heard the Student's appeal concerning his suspension for eight days in the next semester for failure to attend Saturday School as he had agreed to for violating the Local Board's rules regarding smoking. The Local Board heard evidence that the Student should not have been found in violation of the smoking rules on one offense for which he was punished, that he was in violation of the Local Board's rules against smoking on two other occasions, and that the Student had agreed to attend Saturday School in lieu of suspension but failed to appear or give school officials notice he would not appear. Based apparently on the Local Board members' opinion that the Student had been improperly punished for one offense, the Local Board reduced the suspension from eight to four days. Because the Student failed to attend Saturday School as he had agreed, the Local Board required the Student to serve four days in detention.

PART III

DISCUSSION

The State Board of Education is authorized to hear appeals from decisions made by local boards on matters of

local controversy involving the construction or administration of the school laws. O.C.G.A. §20-20-1160. The State Board of Education is not authorized to substitute its judgment for that of the local board, and must sustain the decision of the local board if there is any evidence to support the local board's decision, absent an abuse of discretion or violation of law by the local board. See, Ransum v. Chattooga Cnty. Bd. of Ed., 144 Ga. App. 783 (1978); Antone v. Greene Cnty. Bd. of Ed., Case No. 1976-11.

The Student contends on appeal that the denial of credit was arbitrary and capricious, beyond the authority of the Local Board because the State has statutes regarding attendance, and was too harsh.

The Local Board was within its authority to deny the Student credit for excessive absences. The State Board of Education has previously determined that local boards have the authority to deny course credit for excessive absences. See, Edward E. v. Effingham County Board of Education, Case No. 1985-5; Netra Wymbs v. Clarke County Board of Education, Case No. 1986-36. On at least two occasions, the State Board has reversed decisions of local boards where the local board's rules were unclear with respect to whether excused absences would be counted towards the excessive absences. See, Michele C. v. Clinch County Board of Education, Case No. 1981-12; Robert C. v. Marion County Board of Education,

Case No. 1985-7. Here, the testimony was that the rule was clear and, in fact, the Student manual pointed out that, if the Student had unexcused absences included, it lessened the likelihood of restoration of credit. Thus, even though the rule is harsh, it was made clear to the Student in advance and is within the authority of the Local Board.

The Student contends on appeal that the Local Board's decision that the Student be suspended for four days and given four days of detention should be reversed because the principal violated the Student's due process rights when he failed to comply with Local Board rules requiring a letter to be sent to the student's parents where a student is suspended for smoking.

The Principal did not violate the Student's due process rights. The policy does not require that the letter be placed in the U.S. Mail. The Student was handed a copy of the written notice after the Student's father was told of the suspension. Additionally, the Student has not shown how the alleged violation would have harmed him in any event. The Student and his father were given a hearing before the Local Board and were unable to show that failure to place the written notice in the U.S. Mail caused any harm to the Student.

Finally, the Student contends that he should not have been punished for failure to attend Saturday School because

he did not have a means for transportation to and from Saturday School.

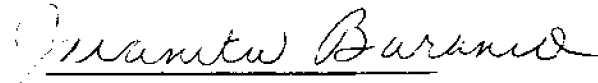
The Local Board was within its authority to order the Student to spend four days in detention for failure to attend Saturday School. The Student had agreed to attend Saturday School to avoid being suspended. The Student failed to attend and was given another opportunity to attend Saturday School. The Student still failed to attend or notify the school officials he would not attend. His actions provided ample evidence from which the Local Board could determine the Student evidenced a disrespect for school authorities justifying discipline.

PART IV

DECISION

Based upon the foregoing discussion, the record and the briefs and arguments of counsel, the State Board of Education concludes that the Local Board did not abuse its discretion in denying the Student credit nor in disciplining the Student. The decision of the Local Board is, therefore, SUSTAINED.

Mr. Foster did not participate in any cases in Executive Session and specifically recused himself in Case No. 1987-27, Laura Fry v. Clayton County.



Juanita Baranco
Acting Vice Chairman for Appeals