

Appellant requested restoration of her credits, and a hearing was held before the Clarke County School District Attendance Appeals Committee on May 30, 1988. Appellant was given a written notice of the hearing and a copy of the appeal procedures, but copies were not mailed to her parents.

At the hearing on May 30, 1988, it was established that Appellant missed 26 days during period 1; 24 days during period 2; 23 days during period 3; 25 days during period 4; 24 days during period 5, and 24 days during period 6. Both Appellant and her mother testified that all but one of the absences was due to illness. The Attendance Appeals Committee decided to deny Appellant's application for restoration of credit in all six classes. Appellant was given written notice of the decision on May 31, 1988. The notice also informed her of her right to appeal to the Local Board.

Appellant appealed the Attendance Appeals Committee decision to the Local Board. The Local Board held a meeting on June 8, 1988 and Appellant's mother attended. On June 9, 1988, the Local Board sent a written notice to Appellant that it had decided to deny her request for restoration of credit.

PART III

DISCUSSION

Appellant sets forth four grounds for her appeal. The first contention is that the Local Board did not have the authority to delegate the duty of conducting an evidentiary hearing to the Attendance Appeals Committee. The second contention is that Appellant's parents should have been informed of the procedures involved in the appeal process. The third contention is that Appellant was not informed that her only opportunity to present evidence would be before the Attendance Appeals Committee. The fourth contention is that the Local Board gave improper notice of its June 8, 1988 hearing. None of these grounds establishes a sufficient basis for

reversing the decision of the Local Board.

The first issue raised by Appellant is whether the Local Board has the authority to delegate to the Attendance Appeals Committee the duty to hold an evidentiary hearing, and to refuse to receive any new or additional evidence upon review of the decision of the Attendance Appeals Committee. O.C.G.A. § 20-2-59 provides:

The county school superintendent and county board of education shall make rules to govern the county schools of their county.

Under the provisions of O.C.G.A. § 20-2-1160, a local board of education is authorized to hold hearings and act as a tribunal on any matter affecting the interpretation of school law. Under the provisions of the Fair Dismissal Act, O.C.G.A. § 20-2-940 et seq., a local board has the authority to appoint a tribunal to conduct a hearing, make findings of fact, and present recommendations. The Constitution of the State of Georgia also vests the responsibility for the management of schools with local boards of education. Ga. Const. art. 8, §5, ¶11, (1983).

Since local boards of education have the constitutional responsibility for the care and management of the schools within their jurisdiction, and there is no specific prohibition against the use of agents to hold hearings and collect facts, it is our opinion that local boards of education have the inherent authority to appoint a committee of educators to conduct evidentiary hearings and make decisions or recommendations. This is especially true in those situations, such as presented here, that primarily involve administrative actions.

In the instant case, the procedures instituted by the Local Board provide students with an opportunity to present mitigating circumstances concerning the application of a specific policy, and there is an opportunity to obtain a review by the Local Board of any decision made by the Attendance Appeals Committee. The Local Board, therefore, has retained ultimate control of the process. We, therefore, conclude that the Local Board did not abuse its authority by having the

Attendance Appeals Committee conduct a hearing and make a decision in the first instance.

The second issue raised by Appellant is whether the Local Board committed any procedural violations by providing written notice to Appellant rather than sending written notice of the hearings to the parents. Appellant maintains that because she is a minor, all of the written notices should have gone to the parents so they could have obtained the proper documentation to present at the May 30, 1988 hearing. Appellant does not cite any authority for this argument, and it appears that the parents were aware of the hearings since Appellant's mother attended all of the hearings. The transcript also shows that Appellant and her parents were aware in February, 1988 that she had too many absences. Thus, there was ample opportunity to obtain any required or desired documentation. Appellant has not shown any authority for her position, nor has she shown where any harm resulted from providing her with the written notice rather than her parents. We, therefore, conclude that the Local Board did not commit any error by providing written notice of the hearings to Appellant rather than to her parents.

The third issue raised by Appellant is whether the Local Board had any responsibility to inform her that her only opportunity to present evidence was before the Attendance Appeals Committee. We think the record does not support Appellant's contention. The policy adopted by the Local Board clearly explains to the students that they should provide all evidence of extenuating circumstances to the Attendance Appeals Committee. In addition, the Local Board has provided the students with a listing of various forms of evidence that would assist their case, e.g., doctor's slips and notes from parents. The students are not misled into thinking they will have several opportunities to present evidence. We, therefore, conclude that the Local Board's procedures do not violate any due process rights of Appellant.

The last issue raised by Appellant is whether her due process rights were violated because she received her notice that the Local Board would review her appeal one day before the Local Board was to meet. Appellant was notified on June 7, 1988 that the Local Board would

meet on June 8, 1988 to consider her appeal. There is no indication in the record when Appellant notified the Local Board that she wanted to appeal the decision of the Attendance Appeals Committee, which issued a written decision on May 31, 1988. Appellant also has not shown that she was harmed by the date of the notice; both she and her mother were at the meeting of the Local Board, and her mother addressed the Local Board. Appellant claims that she was unable to obtain the services of an attorney because of the late notice. Appellant, however, could have obtained the services of an attorney any time after the May 31, 1988 notice, but there is no indication in the record that she made any attempt to obtain an attorney, or that she was denied the services of an attorney because of the June 8, 1988 hearing of the Local Board. We, therefore, conclude that Appellant's claim that she was denied any due process rights because the Local Board held a hearing one-day after providing Appellant with notice of the hearing are without merit.

PART IV
DECISION

Based upon the foregoing, the record submitted, and the briefs and arguments of counsel, the State Board of Education determines that the Local Board did not violate any substantive or procedural due process rights of Appellant, and that the Local Board had the power and authority to make the decision appealed from. The decision of the Local Board, therefore, is

SUSTAINED. Unanimously. Mrs. Cantrell was not present.

This 10th day of November, 1988.

John M. Taylor
Vice Chairman For Appeals