

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JUDDIE M. CAMPBELL, et al.,)
)
)
v.)
)
GORDON COUNTY BOARD OF EDUCATION,)
)
)
Appellee.)

CASE NO. 1985-27

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,

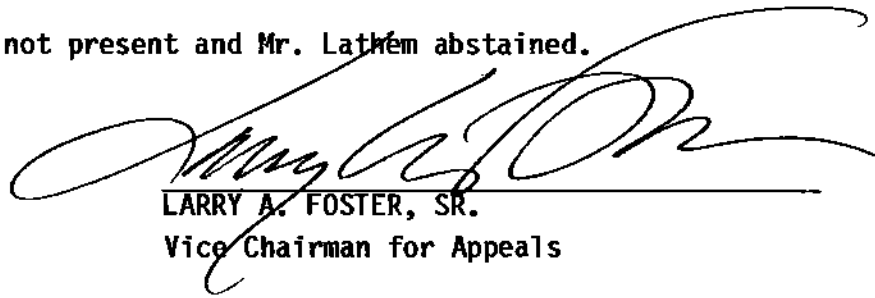
DETERMINES AND ORDERS, that the Findings of Fact of the Hearing Officer are made the Findings of Fact of the State Board of Education and by reference are incorporated herein, and

DETERMINES AND ORDERS, that a matter of local controversy was presented to the Gordon County Board of Education and it should, therefore, have granted Appellants a hearing under the provisions of O.C.G.A. §20-2-1160, and, therefore,

DETERMINES AND ORDERS, that the appeal herein is hereby remanded to the Gordon County Board of Education and the Gordon County Board of Education is hereby directed to provide Appellants a hearing under the provisions of O.C.G.A. §20-2-1160.

This 10th day of October, 1985.

Mr. Temples was not present and Mr. Latham abstained.



LARRY A. FOSTER, SR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JUDDIE M. CAMPBELL, et al.,)
)
 Appellants,)
) CASE NO. 1985-27
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GORDON COUNTY BOARD OF)
EDUCATION,)
) REPORT OF STATE
Appellee.) HEARING OFFICER

PART I

SUMMARY OF APPEAL

This is an appeal concerning whether O.C.G.A. §20-2-1160 requires the Gordon County Board of Education (hereinafter "Local Board") to convene as a tribunal for hearing a matter of local controversy, namely, the consolidation of the Red Bud School and the removal of John Steele as principal. Appellants contend the actions of the Local Board are arbitrary and capricious, an abuse of discretion, and not in the best interests of Gordon County school children. The Local Board contends that no hearing on a matter of local controversy has occurred before the Local Board. Thus, it contends the State Board of Education lacks jurisdiction to hear the appeal and the appeal should be dismissed. The State Hearing Officer recommends the appeal be dismissed.

PART II

FACTUAL BACKGROUND

On February 19, 1985, the Local Board, at a regular board meeting, voted, among other things, to accept a recommendation of the Local Superintendent to restructure the Red Bud School in a K-12 pattern with one principal, one full-time assistant principal, and one part-time assistant principal. By letter dated June 5, 1985, certain individuals requested that the Local Board provide them with a hearing concerning the consolidation of the Red Bud School District and the subsequent removal of the principal of Red Bud Elementary School. The Local Superintendent responded to that letter advising the individuals, through their designated representative, that no "consolidation" of the Red Bud School District had occurred and that in the reorganization of the Red Bud Campus, the elementary school principal had been assigned as the assistant principal of the K-12 program. He further indicated that no hearing was appropriate. Thereafter, the individuals, through their attorney, filed this appeal with the State Board of Education.

PART III

DISCUSSION

The State Board of Education is authorized under O.C.G.A. §20-2-1160 to hear appeals from decisions of local boards of education after a hearing on matters of local controversy.

However, where the Local Board of Education has simply made a decision and has not held a hearing, the State Board of Education lacks jurisdiction to entertain an appeal. Sharpley v. Hall Cnty. Bd. of Ed., 251 Ga. 54 (1983); Owen v. Long Cnty. Bd. of Ed., 245 Ga. 647 (1980); Boney v. County Bd. of Ed., 203 Ga. 152 (1947); Trotter v. Dalton City Bd. of Ed., Case No. 1985-4.

If the Local Board is required by law to hold a hearing, then the Appellant's remedy is to seek a mandamus order in Court rather than appeal to the State Board of Education.

In the instant case, no matter of local controversy has been heard by the Local Board and, thus, the State Board of Education lacks jurisdiction to hear the appeal.

PART IV

CONCLUSION

Based upon the foregoing discussion and the record presented, the State Hearing Officer is of the opinion that no hearing has occurred before the Local Board and the State Board of Education therefore lacks jurisdiction to make a decision. The State Hearing Officer, therefore, recommends the appeal be

DISMISSED.



L. O. BUCKLAND
STATE HEARING OFFICER