

STATE BOARD OF EDUCATION

STATE OF GEORGIA

AUDREY ARRINGTON-HAWKINS, :  
:   
Appellant, :   
: CASE NO. 1994-65  
vs. :   
: DECISION  
ATLANTA CITY :   
BOARD OF EDUCATION, :   
:   
Appellee. :

The issue in this appeal is whether a local school system can suspend a teacher for sixty school days under the provisions of O.C.G.A. § 20-2-943(a)(1)(B). Appellant, Audrey Arrington-Hawkins, was suspended without pay for sixty school days by the Local Board, the Atlanta City Board of Education. Appellant claims that O.C.G.A. § 20-2-943(a) (1) (B) permits a suspension for only sixty calendar days, while the Local Board argues that a suspension can be for sixty school days. In addition, the Local Board argues that the appeal should be dismissed as moot because the suspension period has passed. The Local Board’s decision is reversed and remanded with direction to take action consistent with this decision.

O.C.G.A. § 20-2-943 provides, in part:

(a) In exercising its powers in the enforcement of due process under this part, a local board of education shall be authorized:

(1) Under Code Section 20-2-940 to:

(B) Suspend a teacher or other school employee without pay for a period of time not to exceed 60 days. In such event, the teacher or employee shall provide no services for the school system and shall receive no compensation but shall be considered an employee on suspended status....

In McCrary v. Bibb Cnty. Bd. of Educ., Case No. 1988-25 (Ga. SBE, Aug. 11, 1988), the State Board of Education upheld the decision of the Bibb County Board of Education to suspend a teacher without pay for sixty school days. The decision was later reversed by the Bibb Superior Court. McCrary V. Bibb Cnty. Bd. of Educ., Civil Action 32349-M (Bibb Superior Ct., Oct. 14, 1988). The court reasoned that “the General Assembly has distinguished the words ‘day’, ‘working day’, and ‘school day’ throughout the Georgia Code. See O.C.G.A. § 1-3-3, O.C.G.A. § 20-2-940, O.C.G.A. § 20-2-852, and O.C.G.A. § 20-2- 750,” and, since the word was not modified, it had to mean calendar day.

The Local Board argues that the superior court decision does not have any precedent value for the State Board of Education and there is no reason for the State Board of Education to reverse its McCrary decision. We disagree with the Local Board and reverse our decision in

McCrary for the same reasons set forth by the Superior Court of Bibb County.

We also disagree with the Local Board's motion to dismiss. Even if the suspension period has passed, the State Board of Education can provide some relief to an employee who has been improperly suspended without pay. The Local Board's motion, therefore, is denied.

Based upon the foregoing, it is the opinion of the State Board of Education that the maximum period referred to in O.C.G.A. § 20-2-943 is sixty calendar days rather than sixty school days. The Local Board's decision, therefore, is reversed and remanded with direction to take action consistent with this decision.

This 9<sup>th</sup> day of March, 1995.

Mr. William Teasley was not present

Robert M. Brinson  
Vice Chairman for Appeals