

STATE BOARD OF EDUCATION
STATE OF GEORGIA

PAM OLIVER PITTMAN, :
 :
 Appellant, :
 :
 vs. : CASE NO. 1978-11
 :
 PAULDING COUNTY BOARD OF :
 EDUCATION, :
 :
 Appellee. :

O R D E R

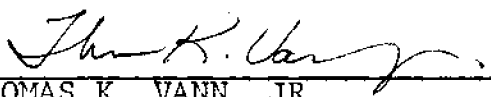
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

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 Paulding County Board of Education herein appealed from, be, and it is hereby affirmed.

Mrs. Huseman dissented.

This 12th day of June, 1978.


THOMAS K. VANN, JR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION
STATE OF GEORGIA

PAM OLIVER PITTMAN,	:	CASE NO. 1978-11
	:	
Appellant,	:	
	:	
vs.	:	
	:	
PAULDING COUNTY BOARD OF	:	REPORT OF
EDUCATION,	:	HEARING OFFICER
	:	
Appellee.	:	

PART I

SUMMARY OF APPEAL

On March 13, 1978, the Paulding County Board of Education (hereinafter "Local Board") entered a decision to uphold the administratively imposed suspension of Pam Oliver Pittman (hereinafter "Appellant") for the remainder of the quarter without any credit for work during the quarter because of Appellant's violation of the smoking rules of the school system. The appeal asserts that the decision was unreasonable, illegal and unconstitutional. The Hearing Officer recommends that the decision of the Local Board be affirmed.

PART III
CONCLUSIONS OF LAW

The Constitution of the State of Georgia of 1976 (Ga. Code Ann. §2-5301) provides that the local board of education is responsible for the operation of the schools within the local school system. See, also, Ga. Code Ann. §32-901. The State has not passed any law nor has the State Board of Education adopted any regulation which pre-empts the authority of a local board of education to establish rules and regulations governing smoking within the schools. Ga. Code Ann. §26-9910 does provide that any person convicted of smoking in certain public areas shall be guilty of a misdemeanor, but there is no indication that the Legislature intended for this statute to supersede or pre-empt the regulation of smoking within the public schools. The Local Board, therefore, had the power and authority to establish a rule providing that any student smoking in an unauthorized area would be suspended without credit.

Appellant's second and third grounds for appeal are the contentions that the Local Board did not act reasonably, lawfully, or constitutionally in suspending Appellant and that the rule of suspension without credit is not lawful or constitutional. As set forth above, the Local

Appellant's fourth ground for appeal is that she is being unconstitutionally deprived of her right to a public education by being suspended by the Local Board. There was not any statutory or case law cited to support his proposition and the Hearing Officer is not aware of any such law. If a student has violated the standards of conduct established by a local board of education and the student is given notice, an opportunity to be heard, and the right to be represented by counsel at a hearing, then it appears that a student may be suspended from school without credit.

The fifth appeal ground encompasses the previous four grounds in the allegation that the decision of the Local Board was unreasonable, capricious, unconstitutional, and illegal. The discussion of the other four grounds, therefore, is applicable to the fifth ground and the fifth ground does not contain any basis for reversing the decision of the Local Board.

PART IV

RECOMMENDATION

Based upon the above findings and conclusions and the record submitted, it is the opinion of the Hearing Officer that the Paulding County Board of Education was acting within

the scope of its authority and its decision was lawful and constitutional. Accordingly, the Hearing Officer recommends that the decision of the Paulding County Board of Education to suspend Appellant for the remainder of the quarter without credit be sustained.

L. O. Buckland

L. O. BUCKLAND
Hearing Officer