

STATE BOARD OF EDUCATION

STATE OF GEORGIA

MARK H., )  
Appellant, )  
v. ) CASE NO. 1985-42  
DEKALB 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 DeKalb County Board of Education herein appealed from is hereby sustained.

Mr. Temples was not present.

This 9th day of January, 1986.



LARRY A. FOSTER, SR.  
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

MARK H., )  
 )  
 Appellant, ) CASE NO. 1985-42  
 )  
 v. )  
 )  
 DEKALB COUNTY BOARD OF EDUCATION, )  
 ) RECOMMENDATION OF  
 Appellee. ) STATE HEARING OFFICER

PART I

SUMMARY OF APPEAL

This is an appeal by the mother (hereinafter "Parent") of of Mark H. (hereinafter "Student") from a decision of the DeKalb County Board of Education (hereinafter "Local Board") upholding a Student Evidentiary Committee decision to expel the Student and to place him on probation for the 1986-87 school year. The Parent contends the decision is unduly harsh since it is preventing the Student from enrolling in any school, public or private, and that the Student's psychological evaluations were not considered. The Hearing Officer recommends the decision of the Local Board be sustained.

PART II

FACTUAL BACKGROUND

The Student is a fourteen year old male who has had a history of discipline problems. The record contains evidence of thirty-eight (38) disciplinary actions during the past two

years. The offenses go from being off-task to fighting, truancy, use of profanity, and threatening teachers. Various disciplinary actions have been taken during the period.

On September 27, 1985, the Student was truant and received a three-day out of school suspension with a recommendation for a hearing before a Student Evidentiary Hearing Committee. At the Student Evidentiary Hearing, the Committee considered the Student's offense record, his academic record, which showed all F's and unsatisfactory progress, and the statement by the parent, who requested that the Student not be expelled so that he could attend school in Cobb County where his father resided. The Student Evidentiary Hearing Committee subsequently voted to expel the Student from all units of the Local School System for the remainder of the 1985-86 school year and to place the Student on probation for the 1986-87 school year. The parent was notified of this decision November 4, 1985 and filed this appeal November 5, 1985.

### PART III

#### DISCUSSION

The parent contends on appeal that the decision of the Local Board was unduly harsh and that the Student's psychological evaluations were not considered by the Local Board in making its decision.

The State Board of Education is authorized to hear appeals from decisions of local boards of education such as the expulsion

involved in this case. However, the State Board of Education is not legally authorized to reverse a local board decision unless there is no evidence to support the decision of the local board, the local board acts in an illegal manner, or the local board abuses its discretion. See, Ransum v. Chattooga Cnty Bd. of Ed., 144 Ga. App. 783 (1978); Antone v. Greene Cnty Bd. of Ed., Case No. 1976-11. Here, the parent's argument is that the Local Board acted too harshly and did not consider certain mitigating evidence. Whether that argument is correct or not, that argument does not provide any grounds upon which the State Board of Education can legally reverse the decision of the Local Board. Under Georgia's Constitution, the control and management of local systems is within the discretion of local boards of education. In a case where a student commits an offense and is provided his due process rights, the extent to which a local board disciplines a student, as long as the discipline imposed is within the authority of the local board, is a matter strictly within the local board's discretion. Expulsion is a disciplinary measure which is within the authority of the local board to enforce. The record does not show that the Student was in a special education program at the time of the hearing so that the Local Board was constrained to consider the Student different from any other student. Thus, the decision of the Local Board was within its authority and the State Board of Education may not legally reverse the Local Board's decision.

PART IV  
RECOMMENDATION

Based upon the foregoing discussion and the record presented, the Hearing Officer is of the opinion the action of the Local Board expelling the Student was procedurally correct and was a matter within its authority. The Hearing Officer, therefore, recommends the decision of the Local Board be

SUSTAINED.

  
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L. O. BUCKLAND  
STATE HEARING OFFICER