

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

**RONALD H.,** )  
 )  
 **Appellant,** )  
 **v.** ) **CASE NO. 1986-14**  
 )  
 **MUSCOGEE COUNTY** )  
 **BOARD OF EDUCATION,** )  
 )  
 **Appellee.** )

**ORDER**

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

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 Muscogee County Board of Education herein appealed from is hereby reversed.

Mrs. Baranco did not vote.

Mr. Taylor voted no.

This 30th day of May, 1986.

**LARRY A. FOSTER, SR.**  
Vice Chairman for Appeals

Dick Owens voted with majority and states for the record that punishment of non-participation in graduation exercises should have been stated in local policy.



The Student Disciplinary Tribunal held its hearing and received testimony from the Student and the Principal. The Student had good grades in school and had not been involved in any other behavioral incidents since 1984. The Principal recommended that the Student be committed to an alternative school and not allowed to graduate with his class. Under the student disciplinary rules adopted by the Local Board, the Student was subject to being expelled from school, or granted probation if a first offender. Probation requires attendance at an alternative school and participation in a drug rehabilitation program. The Student Disciplinary Tribunal decided that the Student should be placed on probation and committed to an alternative school program for the remainder of the school term with required attendance at the Drug Inclination Group (“DIG”) program.

The Student’s parents appealed the decision of the Student Disciplinary Tribunal to the Local Board because it was their understanding that the Student Disciplinary Tribunal’s decision also included the decision that the Student could not participate in the graduation ceremonies. This understanding was apparently based upon the recommendation of the Principal, or discussions with the Principal, and statements made during the hearing to the effect that the Student’s assignment to the alternative school would not permit him to participate in the graduation exercises with his class.

The Local Board held a hearing on April 25, 1986, to hear the appeal from the decision of the Student Disciplinary Tribunal. During the hearing, the Local Board heard testimony from the Principal and the Student once again, even though the Local Board’s discipline policy provides only for a review of the record by the Local Board. At the conclusion of the hearing, the Local Board decided that the Student would have to attend the alternative school for the remainder of the term, attend the DIG program, and would not be allowed to participate with his class in the graduation exercises. The written notice of the Local Board’s decision to the Student’s parents, however, only stated that the Local Board had decided to affirm the decision of the Student Disciplinary Tribunal and it did not mention that the Student would be unable to participate in the graduation exercises.

The Student's parents were again informed that he would be unable to participate in the graduation exercises with his class, so they appealed the Local Board's decision to the State Board of Education. A supersedeas order was requested and granted, by the Vice-Chairman for Appeals, on May 22, 1986, to the extent that the Student would be allowed to participate in the graduation ceremony. An expedited hearing was requested by the Local Board and held on May 27, 1986.

### **PART III**

#### **DISCUSSION**

The only issue raised by this appeal is whether the Local Board acted improperly in denying the Student the ability to participate in the graduation exercises with his class. The Student has successfully completed the remainder of the term in the alternative school, completed the DIG program, and received a favorable recommendation from the DIG program.

The only evidence that attendance at the alternative school prevents participation in the graduation exercises was the testimony of the Principal. The Local Board's counsel argued that assignment to the alternative school meant withdrawal from Columbus High School and that it naturally followed that the Student would be unable to participate in the graduation ceremonies. The Local Board's counsel also explained that the Student would have to be re-enrolled in Columbus High School in order to be considered a student at Columbus High School. According to the Principal's testimony, however, the Student would receive a diploma from Columbus High School even if he did not attend the graduation exercise.

Local boards of education are granted broad authority under the State constitution, statutes, and judicial opinions in managing local school systems. Decisions regarding student discipline normally will not be interfered with by the State Board of Education or by the Courts if there is any

evidence to support the decision, unless there has been an abuse of discretion, or the violation of a student's constitutional rights, especially due process and equal protection. In the instant case, the Student's parents allege that there has been an abuse of discretion and denial of equal protection because other students who have been assigned to the alternative school are being allowed to participate in the graduation exercises.

Under the circumstances, the impact of the Local Board's regulation is dependent upon when a student commits an infraction. A student in any grade but the twelfth, and seniors up to the last term, could be assigned to the alternative school and expect to participate in the graduation exercises at the end of the senior year. Assignment to the alternative school during the last term of the senior year, however, results in the additional punishment of being unable to participate in the graduation exercises, but the Local Board's disciplinary rules do not provide for such additional punishment.

Arguably, the additional punishment could be considered to be a lesser punishment than expulsion, and the Local Board can impose any punishment up through expulsion for the offense of consuming alcoholic beverages. But, the Local Board's policy provides that a student who is designated as a first offender "may be granted probation" with the conditions of attending the alternative school and the DIG program, and receiving favorable recommendations. Only if the student fails to attend the alternative school and the DIG program is expulsion imposed.

As the Local Board's policies are presently structured, a senior student in the last term is not reasonably informed that the penalty for consuming alcohol is an inability to participate in the graduation exercise at the end of the term. All other students who find themselves in the same situation are not subject to the punishment of being unable to participate in the graduation ceremony. When a local board institutes a policy which does not forewarn the students of the consequences of their actions, and which impacts differently on students who commit the same violation and receive the same punishment, then the local board can be deemed to have

instituted a policy which is arbitrary and capricious. In the instant case, the Hearing Officer concludes that the policy, or its application in this instance, is arbitrary and capricious.

#### **PART IV**

#### **RECOMMENDATION**

Based upon the foregoing discussion, the record presented, and the arguments of counsel and the parents, the Hearing Officer is of the opinion that the policy of the Local Board is arbitrary and capricious or has been applied in an arbitrary and capricious manner. The Hearing Officer, therefore, recommends that the decision of the Local Board, not to permit the Student to participate in his senior graduation exercises, be

**REVERSED.**

**L. O. BUCKLAND**  
Hearing Officer