

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>CLARENCE H. ,</b>	)	
	)	
<b>Appellant,</b>	)	
	)	
<b>v.</b>	)	<b>CASE NO. 1986-20</b>
	)	
<b>DEKALB COUNTY</b>	)	
<b>BOARD OF EDUCATION,</b>	)	
	)	
<b>Appellee.</b>	)	

**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 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.

This 14th day of August, 1986.

LARRY A. FOSTER, SR.  
Vice Chairman for Appeals

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>CLARENCE H. ,</b>	)	
	)	
<b>Appellant,</b>	)	<b>CASE NO. SBE 1986-20</b>
	)	
<b>v.</b>	)	
	)	
<b>DEKALB COUNTY BOARD</b>	)	<b>RECOMMENDATION</b>
<b>OF EDUCATION,</b>	)	
	)	
<b>Appellee.</b>	)	

**SUMMARY**

This is an appeal by the parents of Clarence H. (hereinafter "Student") from a decision of the Dekalb County Board of Education (hereinafter "Local Board") to uphold the decision of the Student Evidentiary Hearing Committee expelling the Student through the spring quarter of the 1986-87 school year but allowing the Student to attend the Bea Dobbins School during this time. The Student was charged with repeated violations/misbehavior, a criminal law violation and improper conduct outside of school hours. The parents contend on appeal that since the Student was found by the juvenile court to be not guilty of the criminal conduct upon which the action was based, he should not have been found guilty by the Local Board, and that the Student should be allowed to reenter his regular school because the mental and emotional stress that has been placed on the Student is detrimental to his continued growth as a teenager. The Local Board contends there is ample evidence to support the decision of the Local Board that the Student violated published school rules concerning repeated violations/misbehavior, criminal law violations, and improper conduct outside of school hours or away from school.

## **FACTUAL BACKGROUND**

This case, and its companion case, Christopher S., Case No. 1986-21, results from an incident in which both male Students participated in sexual activity with a female student. The two male students and the female student got off of the school bus and went to the Student's home. The Student admitted he committed the act of sodomy with the female student. The female student testified she did not consent to the activity. Both male Students testified the female student willingly participated.

The Student's disciplinary record shows that the Student had eight other violations of school rules, including such offenses as refusal to carry out instructions, creating a classroom disturbance, setting a fire, being rude, and using alcohol on school property.

The Student was charged with violation of the following policies:

### **19. - REPEATED VIOLATIONS/MISBEHAVIOR**

- a. Repeated violations of school rules and/or repeated misbehavior.

### **24 - CRIMINAL LAW VIOLATION**

A student who has been formally charged with violation(s) of criminal laws and whose presence on school property may endanger the welfare and/or safety of other students, faculty, or staff, or whose presence may cause substantial disruption at school.

### **26 - CONDUCT OUTSIDE OF SCHOOL HOURS OR AWAY FROM SCHOOL**

Any conduct outside of school hours or away from school that may adversely affect the educational process or endanger the health, safety, morals or well-being of other pupils, teachers, or employees within the school system.

The Student was provided a local hearing on March 13, 1986, which resulted in a ten day suspension and a recommendation that the Student be sent before the Student Evidentiary Hearing Committee. The Student Evidentiary Hearing Committee held a hearing on April 1, 1986, and expelled the student from all units of the local system through winter quarter of the coming school year, with the option of attending the Bea Dobbins School during that time. Additionally, the Student was placed on probation for all of the 1987-88 school year. On appeal, the Local Board upheld the finding of guilt, but increased the period of expulsion to the entire upcoming school year, while still giving the Student the option of attending the Bea Dobbins School.

It is from this decision the parent appeals.

### **DISCUSSION**

The State Board of Education is authorized to consider appeals from decisions of local boards of education made after hearing matters of local controversy in reference to the construction or administration of the school law. O.G.C.A. § 20-2-1160. Under the any evidence rule, the State Board of Education is required to support the decision of a local board if there is any evidence to support that decision, absent an abuse of discretion or a violation of law on the part of the Local Board. See, Ransum v. Chattooga Cnty. Bd. of Ed., 144 Ga. App. 783 (1978); Antone v. Greene Cnty. Bd. of Ed., Case No. 1976-11.

The parents contend on appeal that because the Student was found not guilty by the courts and because the female student who testified was not required to testify regarding previous sexual relations with the two male students, the Local Board cannot punish the Student. However, the Student admitted conduct which constitutes a crime (sodomy). The Local Board was not required to make the same findings as the juvenile court because the degree of proof

required in a school disciplinary hearing is not as great as is required in the court system. The female student admitted the prior sexual activity, and, therefore, additional testimony was not required. Additionally, the Student in this case has a long history of violations which would authorize the punishment imposed by the Local Board. Thus, there is ample evidence to support the decision of the Local Board.

Based on the foregoing discussion, the record presented and the briefs and arguments presented, the Hearing Officer is of the opinion there is evidence to support the decision of the Local Board that the Student violated the rules as charged. The Hearing Officer, therefore, recommends the decision of the Local Board be

**SUSTAINED.**

**L.O. BUCKLAND**  
Hearing Officer