

STATE BOARD OF EDUCATION

STATE OF GEORGIA

ALVIN J.,)
)
 Appellant,)
 V.) **CASE NO. 1986-24**
)
 ROME CITY)
 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 hereto, and after a vote in open meeting,

DETERMINES AND ORDERS, that the Findings of Fact and Conclusions the Law of the Hearing Officer are made the Findings of Fact and Conclusions of the Law of the State Board of Education and by reference are incorporated herein, and

DETERMINES AND ORDERS, that the decision of the Rome City Board of herein appealed from is hereby sustained.

Mrs. Jasper was not present.

This 11th day of September, 1986.

LARRY A.FOSTER, SR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

ALVIN J.,)	
)	
Appellant,)	CASE NO. SBE 1986-24
)	
v.)	
)	RECOMMENDATION OF
ROME CITY BOARD OF)	HEARING OFFICER
EDUCATION,)	
)	
Appellee.)	

SUMMARY

This is an appeal by the father of Alvin J. (hereinafter "Student") from a decision of the Rome City Board of Education (hereinafter "Local Board") that suspended the Student for the remainder of the 1986 spring quarter, denied the Student participation in graduation exercises or any school functions for the remainder of the 1986 spring quarter, but allowed the Student to take his final examination in English after the 1986 spring quarter was completed, and allowed him to graduate and receive his diploma if he passed his English examination and met all other school requirements. The reason the Student was disciplined was because he possessed a knife on school grounds during school hours. The father contends on appeal that the punishment was too severe and unfair and the Student was denied due process. The Hearing Officer recommends the decision of the Local Board be sustained.

FACTUAL BACKGROUND

The Student was to graduate from high school in 1986. On May 2, 1986, a teacher at the high school observed the Student with a small penknife. She took the knife from the Student and gave it to the assistant principal. The assistant principal turned the knife over to the principal. The principal investigated the situation to determine if the school rule against possession of a knife or other object that could be considered a weapon had been violated. He interviewed the teacher, who confirmed that the Student had the knife. He then interviewed the Student, who admitted having the knife. Based upon this information, the Student was given an in-school suspension. Subsequently, the Student was given a hearing before a tribunal. At the hearing, the Student admitted possessing the knife, but stated he did not consider it to be a weapon and that at the time the teacher took it, he was using it to clean his fingernails. The tribunal found the Student guilty of possessing a knife and suspended the Student for the remainder of the spring quarter.

The Student then appealed the decision of the tribunal to the Local Board which, based upon its review of the record, found that the ruling of the tribunal was supported by the evidence presented at the hearing. The Local Board agreed with the tribunal's decision but permitted the Student to take his final English examination and receive his diploma after the regular school year was completed.

DISCUSSION

The State Board of Education follows the "any evidence" rule on appeals under O.C.G.A. §20-2-1160. Thus, if there is any evidence to support the decision of the Local Board,

absent an abuse of discretion or a violation of law by the Local Board, the State Board of Education is bound to sustain the Local Board's decision. 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 father contends on appeal that the punishment was too severe, that the Student was denied substantive due process because the knife was too small to be considered a weapon within the meaning of the Local Board's policy and because the Student was denied procedural due process.

The father's contentions on appeal do not warrant reversal of the decision of the Local Board. The argument that the punishment was too severe is not a legal argument which would authorize reversal by the State Board of Education. The decision as to the appropriate punishment for violation of the Local Board's rules is within the discretion of the Local Board. The argument that the knife is too small to be considered a weapon does not warrant reversal because the Local Board clearly could interpret the policy to include small knives. A policy which prohibits the possession of "a knife or other object that can be considered a weapon" is not too vague to include a small knife.

While the father cites the definition of a knife in the criminal code and contends that the knife in this case does not fall under that definition, this argument fails to recognize that the Local Board is not proceeding under the criminal statute and is not subject to the strict requirements of criminal proceedings.

The father's contention that the Student was denied procedural due process also does not warrant reversal of the Local Board's decision. The father contends that the Local Board failed to follow its own rules by failing to mail notice of the Student's suspension within twenty four hours of the suspension, by failing to give the Student a complete hearing at the school, and by failing to include a page of the hearing procedures in the notice. Even if the above procedural violations are true, the father has not shown how they warrant reversal of the decision of the Local Board. The Student admitted he possessed the knife. He was aware of the charges and was able to prepare a defense. It is clear the Student was given a fair hearing with the opportunity to be represented by counsel. Any procedural violations by the Local Board amounted to harmless error.

Based on the foregoing discussion and the record presented, the Hearing Officer is of the opinion there was evidence to support the decision of the Local Board and any procedural due process violations which might have occurred were harmless error. The Hearing Officer, therefore, recommends that the decision of the Local Board be

SUSTAINED.

L. O. BUCKLAND

Hearing Officer