

STATE BOARD OF EDUCATION

STATE OF GEORGIA

HARVEY R.,)	
)	
Appellant,)	
v.)	CASE NO. 1986-38
)	
)	
DEKALB 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 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 13th day of November. 1956.

Larry A. FOSTER, SR.

Vice Chairman for Appeals

any information. Later, several students placed anonymous telephone calls to the assistant principal and told him who was involved in the incident. When the Student was confronted with the information that he had been named as the guilty party, he admitted to the assistant principal that he had received the smoke bomb from another student and lit it on the bus.

The assistant principal suspended the Student for ten days and sent a notice to the Student's parents that the Student would be required to appear before the Student Evidentiary Hearing Committee. The assistant principal testified that the Student had admitted to him that he had exploded the smoke bomb. The Student did not testify at the hearing. The Student Evidentiary Hearing Committee expelled the Student from all regular units of the Local System but allowed him to attend the Hamilton Alternative School. The Student appealed the decision of the Student Evidentiary Hearing Committee to the Local Board, which upheld the decision in a meeting on August 11, 1986. The parents filed this appeal on September 4, 1986.

PART III

DISCUSSION

The State Board of Education follows the rule that if there is any evidence to support the decision of a local board of education, the decision will not be disturbed upon review. See, Ransum v. Chattooga Cnty. Ed. of Ed., 144 Ga. App. 783 (1978); Antone v. Greene Cnty. Ed. of Ed., Case No. 1976-11. This rule is controlling unless some error of law is shown, or the decision of a local board of education is an arbitrary and capricious decision.

The parent contends on appeal that the Local Board violated the Student's due process rights by delivering the notice of hearing letter to the Student rather than mailing it to the parents, and because the assistant principal misinformed the Student regarding the posture he should take at the hearing. The record, however, does not reflect a violation of the Student's due process

rights. A letter in the record from the parents states that the notice letter was delivered to the parents' home. They clearly received the notice and have not shown how any harm resulted from placing the letter in the hands of the Student. The parents also have failed to show how the alleged advice regarding the hearing has created any harm. First, they were not required to follow the advice and, second, the parents contentions go towards the leniency to be given the Student rather than whether the Student committed the offense.

The parent's final contention, that the punishment was too harsh, also does not warrant reversal of the decision of the Local Board. The punishment given the Student was related to a legitimate purpose of the Local Board of maintaining safe conditions on school buses. The State Board of Education is not allowed to substitute its judgment for that of the Local Board in determining the degree of punishment a should receive if the punishment is within the authority of the local board. For the State Board of Education to determine that the punishment given the Student violates substantive due process, the State Board of Education would have to determine that there was no rational reason for the punishment or that the punishment was so severe, when compared to the offense, that it was shocking. In the present case, the Student was allowed to attend the alternative school. Such a punishment does not violate the Student's substantive due process rights.

Finally, there was evidence to support the decision of the Local Board. Two students testified they gave the smoke bomb to the Student. The assistant principal testified the Student admitted having the smoke bomb and lighting it.

PART IV

RECOMMENDATION

Based on the foregoing discussion, the record presented, and the briefs and arguments of the parties, the Hearing Officer is of the opinion that there was evidence to support the decision of the Local Board, the Local Board did not violate the Student's due process rights, and the punishment imposed was within the authority of the Local Board. The Hearing Officer, therefore, recommends that the decision of the Local Board be

SUSTAINED.

**L. O. Buckland
Hearing Officer**

