

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>JOHN H.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	<b>CASE NO. 1990-2</b>
v.	:	
	:	<b>DECISION</b>
<b>COLUMBIA COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	

John H. (“Student”) has appealed from a Columbia County Board of Education (“Local Board”) decision to uphold a Student Disciplinary Tribunal decision to suspend him for the remainder of a school semester because of his use of profanity within the school. The Student argues that the punishment is too harsh. The appeal is dismissed because the issues are moot.

The fifteen-year old Student is in the eighth grade. During the first semester of the 1989-1990 school year, he was disciplined several times for being rude to a teacher, failing to obey a teacher, using unacceptable language, and other infractions. The Student had nine discipline incidents between September and November 14, 1989. The disciplinary measures taken included in-house suspension, in-school suspension, and Saturday classes.

On November 14, 1989, when he was presented a disciplinary form for his conduct on the previous day, the Student directed a string of profanity against a teacher. The Student subsequently admitted to the assistant principal that he had used profanity towards the teacher. The matter was turned over to a Student Disciplinary Tribunal with a recommendation of long-term suspension.

The Student Disciplinary Tribunal conducted a hearing on November 21, 1989. The Student, his mother, and his attorney were present, and witnesses were examined and cross-examined. The Student testified that he understood that he should not use profanity in the school and that he had to

change his attitude. The Student Disciplinary Tribunal decided to suspend the Student for the remainder of the first semester. The Tribunal also recommended family counseling and use of the school counselor when the Student returned to classes.

The Student appealed from the Student Disciplinary Tribunal's decision to the Local Board. On December 12, 1989, the Local Board voted to uphold the Student Disciplinary Tribunal's decision. On December 28, 1989, the Student appealed to the State Board of Education. A motion for supersedeas was not filed.

The Student claims on appeal that he was denied equal protection under the fourteenth amendment of the United States Constitution because the discipline imposed was too excessive to be reasonably related to a legitimate school interest. Additionally, the Student claims that under Local Board Policies, the Local Board should have ordered a lesser form of discipline. The Local Board counters by arguing that long-term suspension is authorized by statute, that it has a legitimate interest in maintaining order in the schools, and that lesser forms of discipline have been attempted without success.

The issues raised by this appeal are moot. The State Board of Education has limited jurisdiction and, essentially, can only uphold or reverse the decision of a local board of education. In this case, the Student's suspension period ended upon completion of the first semester. Since the Student has already served his suspension, the State Board of Education cannot provide any relief. The State Board of Education, therefore, concludes that the appeal should be dismissed.

Notwithstanding dismissal, a review of the merits also indicates that the Local Board's decision is valid. The standard for review by the State Board of Education is that if there is any evidence to support the decision of the local board of education, then the local board's decision will stand unless there has been an abuse of discretion, or the decision is so arbitrary and capricious as to be illegal. See, Ransum v. Chattooga County Bd. of Educ., 144 Ga. App. 783 (1978); Antone v. Greene County Bd. of

Educ., Case No. 1976-11. Long-term suspension is an acceptable form of discipline available to local boards of education. O.C.G.A. § 20-2-755. The Local Board's policies provide that a student can receive long-term suspension for the use of profanity.

The Student's argument that the Local Board should have ordered counseling rather than imposing long-term suspension simply amounts to the substitution of one response to a rule infraction with another response. The Student's appeal is a request for the State Board of Education to substitute its judgment for that of the Local Board. The Student's assertion that long-term suspension does not serve the Local Board's interest in maintaining order is not supported by any evidence. The Student's simple assertion is insufficient to overcome the presumption that the Local Board's policy is valid. There has been no showing that the Local Board deprived the Student of any due process or equal protection rights.

Based upon the foregoing, the State Board of Education is of the opinion that all issues raised by the Student are moot because relief cannot be granted to the Student since the first semester has been completed and the Student has served his suspension period. Appellant's appeal, therefore, is

DISMISSED.

This 12th day of April, 1990.

Mr. Bobby Carrell was not present.

Larry A. Foster  
Vice Chairman for Appeals