

STATE BOARD OF EDUCATION

STATE OF GEORGIA

TORONALD J.,	:	
	:	
Appellant,	:	
	:	CASE NO. 1990-10
v.	:	
	:	
MUSCOGEE COUNTY: BOARD OF EDUCATION,	:	DECISION
	:	
Appellee.	:	

On February 14, 1990, Toronald J. ("Student") and a group of four other students attacked two students from another school. All of the students were in either the seventh or eighth grades. The group did not use any weapons, but they severely beat the two students. The attack occurred 45 minutes after the dismissal of school, but the group members were on their way home from school. The assistant principal witnessed the attack from his car but could not intervene because of the automobile traffic.

A student disciplinary tribunal met on February 23, 1990, and heard the evidence. The Assistant Principal identified the Student as a participant, and the Student admitted his participation. Witnesses described the attack as "savage". The Student Disciplinary Tribunal recommended suspension of all but one of the students for the remainder of the 1989-1990 school year. Through his mother, the Student appealed the decision to the Muscogee County Board of Education ("Local Board"). On March 19, 1990, the Local Board voted to adopt the decision of the Student Disciplinary Tribunal. The Student then appealed to the State Board of Education on the ground that the decision was too harsh.

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 the local board abused its 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.

The Student's mother claims that the Local Board's decision abused its discretion because it is the policy of the legislature that students should remain in school. She argues, pro Se, that the Local Board should have permitted the Student to attend an alternative school. The Student's mother argues also that, at a minimum, the Student should be permitted to attend summer school sessions so that he will not have to repeat the entire seventh grade because he was expelled for a portion of the year.

The Public School Disciplinary Tribunal Act, O.C.G.A. § 20-2-750 et seq., provides that a disciplinary tribunal shall determine what disciplinary action is to be taken, and such "action may include ...expulsion..." O.C.G.A. § 20-2-755. "Expulsion" is defined as "expulsion ...beyond the current school quarter or semester". O.C.G.A. § 20-2-751. The State Board of Education has consistently held that local boards of education are responsible for determining the scope of the discipline imposed upon students.

Although expulsion is not necessarily a favored disciplinary measure, the General Assembly has authorized local boards to use it as a means of discipline. The Student Disciplinary Tribunal and the Local Board, therefore, had clear statutory authority to impose expulsion as a disciplinary measure in this case. The Local Board acted, therefore, within its discretion when it approved the Student Disciplinary Tribunal's decision.

Based upon the foregoing, the record submitted, and the arguments made, the State Board of Education concludes that the Local Board did not abuse its discretion in expelling the Student until the beginning of the 1990-1991 school year. The Local Board's decision, therefore, is
SUSTAINED

This 14th day of June, 1990.

Larry A. Foster
Vice Chairman For Appeals