STATE BOARD OF EDUCATION

STATE OF GEORGIA

VANN S.,	:	
	:	
Appellant,	:	
	:	**CASE NO. 1990-11**
	:	
v.	:	
	:	**DECISION**
EVANS COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

Vann S. ("Student") appealed the February 12, 1990, decision of the Evans County Board of Education ("Local Board") to expel him from school for the remainder of the 1989-1990 school year because he was referred to the principal's office for talking in class, which violated a probation imposed by the Local Board in a previous hearing. The probation terms provided that if the Student "returns to the office with a discipline problem for the remainder of the school year he will be suspended ... and a ... hearing will be held for the purpose of possible expulsion." The Student argues that the Local Board denied him procedural due process and its decision was arbitrary and capricious. All of the issues raised by the Student are moot.

The Local Board has a progressive discipline policy. The Local Board expects its teachers to handle most discipline problems, but it permits the teachers to refer a disruptive student to the principal as a last resort. The first time a teacher refers a student to the principal's office, the principal warns the student and explains the student behavior code. Additionally, the principal can place the student on probation. The second time a teacher refers the student, the student has the choice of receiving corporal punishment or in-school suspension for five days. After the third referral, the principal will suspend the student and the student's parents must

confer with the principal before the student is re-admitted. In addition, the student can elect to receive corporal punishment or in-school suspension. After the fourth time a teacher refers a student, the student must appear before the Local Board. If the Local Board places a student on probation, the policy provides that if the student violates probation, then the student will be subject to expulsion.

The Student, an eighth grader, was referred to the principal's office on five different occasions during the first two months of the school year. Four of the infractions were for disrupting his class by talking after repeated warnings from the teachers; one infraction was his refusal to put his shirt tail inside his pants. As a result of the fifth infraction, and in accordance with its established policies, the Local Board placed the Student on probation. On February 8, 1990, the Student disrupted his class again by talking after repeated warnings by his teacher. The teacher then referred the Student to the principal's office. The Local Board conducted a hearing on February 12, 1990, and decided to expel the Student for the remainder of the 1989-1990 school year.

On appeal, the Student raises several issues. First, the Student argues that the punishment is excessive for the infraction involved. Second, the Student claims that the Local Board erred by not making findings of fact. Third, the Student claims the Local Board deprived him of procedural due process because it failed to give him sufficient notice before the first hearing when the Local Board placed him on probation, he was not given an opportunity to cross examine the teacher who reported him to the principal's office, he was not provided with a transcript, and the Local Board failed to forward his appeal in a timely fashion. Finally, the Student claims that the Local Board should have provided him with an alternative education.

All of the issues raised by the Student present moot points. The Student has been absent from school since February 13, 1990, and the school year is finished. The Student cannot obtain any relief from the State Board of Education at this time.

Even on the merits, the Student has not presented any basis for reversing the Local Board's decision. The control and management of the local schools has been left with the local boards of education, and the State Board of Education will not review the nature of the punishment imposed by a local board of education if the punishment imposed is authorized by statute or not prohibited by law. See, Bracely v. Burke Cnty. Bd. of Educ., Case No. 1978-7. 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. The General Assembly has authorized expulsion or long-term suspension as a form of discipline.

O.C.G.A. § 20-2-755.

In this case, the Local Board was faced with a Student who exhibited continuous rebelliousness in spite of increasing degrees of punishment; all previous efforts with lesser degrees of discipline were fruitless. The Student continued his disruptive behavior in class despite repeated warnings from his teachers. Faced with such circumstances, the Local Board's decision to expel the Student did not impose an excessive punishment for the infraction involved.

The Local Board also failed to forward the transcript to the State Board of Education within ten days after the appeal was filed, as required by O.C.G.A. § 20-2-1160(b). The appeal was filed on March 7, 1990, and the record was forwarded on April 6, 1990. If the Local Board had forwarded the appeal by March 17, 1990, the case would not have been heard any earlier by the State Board of Education. Thus, in this instance, the Local Board's delay did not result in any harm.

The Student's final claim, that the Local Board should have provided him with alternative school, is not supported by any statute or State Board policy. The General Assembly has recognized the need to provide all children with a quality program, O.C.G.A. § 20-2-131(2), but this does not establish a requirement upon local boards of education to provide alternative education programs.

Based upon the foregoing, the State Board of Education is of the opinion that the issues raised by the Student are moot because the school term has ended and the Student cannot be provided any relief. The appeal, therefore, is

DISMISSED.

This 14th day of June, 1990.

Larry A. Foster
Vice Chairman For Appeals