

STATE BOARD OF EDUCATION

STATE OF GEORGIA

DEIANGELO E.,	:	
	:	
Appellant,	:	
vs.	:	
	:	CASE NO. 1991-21
COFFEE COUNTY	:	DECISION
	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by Deiangelo E. ("Student") from a decision by the Coffee County Board of Education ("Local Board") to suspend him for the remainder of the 1990-1991 school year for breaking and entering into a school building and stealing and damaging school property. Additionally, the Local Board required the Student to make restitution before he could re-enter school. The decision of the Local Board is sustained.

The Student is a fifth year senior. At the time of the hearing before the Local Board, the Student needed two more units to graduate. On January 10 or January 11, 1991, the Student and two other students broke into a school building and stole four video tape players, an electric pencil sharpener, and a tape player. They also broke a window to gain entry.

At the hearing before the Local Board, the Student admitted to the charges. The Local Board has a rule that prohibits any student from damaging, stealing, or attempting to steal school property. The rule also requires mandatory restitution. The Student appealed to the State Board of Education because he alleges that the Local Board's decision is not consistent.

The standard for review by the State Board of Education is that if any evidence exists 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 (St. Bd. of Ed., 1976). In this case, there was no showing of an abuse of discretion.

The Student has attempted to introduce additional evidence to show that the Local Board has treated other students differently. The State Board of Education, however, is limited to the record of the hearing that was conducted by the Local Board. The State Board of Education cannot consider any new evidence. Even if the evidence was considered, it does not provide any indication of the circumstances under which the Local Board acted. The State Board of Education, therefore, can only conclude that the Local Board acted within its discretion.

Normally, we would dismiss an appeal when the period of suspension has passed. In this case, however, the Local Board's decision requires the Student to make restitution before he will be re-admitted. We have, therefore, considered the merits.

Based upon the foregoing, it is the opinion of the State Board of Education that the decision of the Local Board was not arbitrary or capricious. The Local Board's decision, therefore, is SUSTAINED.

This 12th day of September, 1991.

Mr. Brinson, Mr. Foster, and Dr. King were not present

Richard C. Owens
Acting Vice Chairman for Appeals