

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>KEINO R.,</b>	:	
	:	
<b>Appellant,</b>	:	
v.	:	
	:	<b>CASE NO. 1991-23</b>
<b>DEKALB COUNTY</b>	:	<b>DECISION</b>
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	

Keino R. ("Student") appealed from a decision by the DeKalb County Board of Education ("Local Board) to uphold the decision of a Student Evidentiary Hearing Committee to permanently expel him from the DeKalb County School System. The Local Board sustained the charge that the Student committed an aggravated battery against another student. The State Board of Education dismisses the appeal because the issues raised are moot.

On May 26, 1991, the Student and two other students attacked another student while the victim was on his way home from school. The attackers loosened two of the victim's teeth. On May 29, 1991, the school system suspended the three attackers for ten days. The Student, a senior, was scheduled to graduate on June 6, 1991. On June 4, 1991, the Student's parents received notice that a Student Evidentiary Hearing Committee ("SEHC") would conduct a hearing on June 5, 1991.

The SEHC received evidence from the parties involved and from witnesses. After the hearing, the SEHC decided that the Student had committed aggravated battery against the victim. The DeKalb County Code of Student Conduct prohibits aggravated battery by a student. The SEHC expelled the Student permanently from all units of the DeKalb County School System. The SEHC also decided to prohibit the Student from participating in the graduation exercises. Instead, the Student received his diploma in the mail. On July 8, 1991, the Local Board upheld the SEHC decision. The Student then appealed to the State Board of Education.

The Student claims on appeal that the Local Board gave him insufficient notice of the SEHC hearing so he was unable to secure counsel; the SEHC improperly denied his request for a continuance to enable him to secure counsel; the SEHC did not consider inconsistencies in the victim's testimony about the identity of his attackers; the alleged offense did not fall within the definition of aggravated battery; the disciplinary action was arbitrary, capricious, and discriminatory because different punishments were given to the three assailants; the Local Board failed to provide him with a timely transcript of the SEHC hearing, and Local Board lacked jurisdiction because the incident occurred outside school property and after school hours. The Local Board moved to dismiss the appeal because the claims are moot since the Student has graduated from school and is no longer subject to the jurisdiction of the Local Board.

During oral arguments, the Student maintained that the appeal was not moot because his school records will show that he was found guilty of aggravated battery and expelled from school. As a result, he will be unable to go to college and will be denied the ability to pursue certain professions. He claims that under the holding of the Georgia Supreme Court in United Food & Corn. Workers v. Amberjack Ltd., 253 Ga. 438, 321 S.E.2d 736 (1984) the State Board of Education should review the issues because the errors involved are capable of repetition without receiving a review by the State Board of Education. We disagree.

No evidence exists that the Student's disciplinary records are available to anyone now that he has graduated. The period of expulsion has passed and the Student received his graduation diploma. A State Board of Education decision on the issues would not have any practical effect on anything "so as to make the judgment not decisive or controlling of actual and contested rights, but a pronouncement having academic interest only." Benton v. Gwinnett County Ed. of Education, 168 Ga. App. 533, 534 (1983).

Appellant also alleges that the State Board of Education did not adhere to the provision which requires the State Board of Education to render a decision within 25 days after a hearing and therefore his request for relief must be granted.

The State Board of Education interprets a hearing to mean the day it considers the appeal. The purpose of oral argument, which is not required by the State Board of Education but only an optional step for Appellant or Appellee, was clearly spelled out in the August 9, 1991, letter to Appellant's attorney. The letter clearly indicates that the process is designed to assist the State Board of Education in reviewing appeals. Furthermore, it is clear from the letter that the State Board of Education will decide the case and not the hearing officer.

Therefore, the State Board of Education did not fail to meet the statutory timelines for issuing a decision. Irrespective of the foregoing argument, the appeal is hereby

DISMISSED.

This 14<sup>th</sup> day of November, 1991.

Mr. Abrams, Mr. Brinson, Mr. Sears and Mrs. King were not present.

Larry A. Foster  
Vice Chairman for Appeals