

STATE BOARD OF EDUCATION

STATE OF GEORGIA

D. H.,	:	
	:	
	:	
Appellant,	:	
	:	CASE NO. 1994-15
vs.	:	
	:	DECISION
	:	
BROOKS COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

D. H. (Student) appeals from a decision by the Brooks County Board of Education (Local Board) to permanently expel him from school because he put on a cap before leaving the school building, he became involved in a tug-of-war with a teacher, and he called the teacher a derogatory name. The Student claims that the Local Board's decision was arbitrary and capricious and the punishment is too harsh. The Local Board's decision is reversed and remanded.

The Student is a seventeen year old ninth grader who had been enrolled in the Brooks County High School for approximately fourteen days on January 10, 1994. As he was walking towards the exit of the high school after the bell rang to dismiss classes for the day, he placed a cap on his head, even though he had been told on at least six previous occasions that Local Board policy prohibited the wearing of hats in the school building. A teacher observed the Student and asked him to remove the cap. The Student did not hear the teacher and continued walking towards the exit. The teacher walked up behind him, grasped his elbow and removed his hat. The Student has a two-inch pin in his elbow and he experienced pain when the teacher grasped his elbow.

As the teacher removed the cap, she said, "Gentlemen don't wear hats in the building.

The Student turned and yelled, "Bitch, I don't have to. School is out. Bitch, give me my hat. Bitch, I don't have to, school is out."

The Student then grabbed his cap, but the teacher retained her hold and the two of them began pulling on the cap. The teacher hit the wall, but she kept her grip on the cap as the Student began moving towards the exit. When the Student walked past a column, the teacher struck the column and let go of the cap. The Student then exited the building.

The Student was charged with violating Rules 5, 9, 10, 12, and 17 of the Local Board's Policy Relating to Student Conduct and Discipline. These rules provide, respectively, that (1) a student shall not act in a manner to cause physical injury to a school employee; (2) a student shall not fail to comply with reasonable directions of teachers; (3) a student shall not wear a hat

in any school building; (4) a student shall not use profane, vulgar, obscene, or offensive language, and (5) a student shall not curse, talk back, sass, or intentionally argue with a teacher.

The Local Board conducted a hearing on January 20, 1994. The Student appeared pro se with his grandfather. At the conclusion of the hearing, the Local Board voted to permanently expel the Student. The Student filed a timely appeal to the State Board of Education.

The Student claims he did not threaten the teacher and that the punishment is too harsh. The Local Board claims that there is evidence in the record to support its decision, and that the decision to permanently expel the Student was within its authority in the proper exercise of its discretion.

“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, 242 S.E.2d 374 (1978); Antone v. Greene County Bd. of Educ., Case No. 1976-11 (Ga. SBE, Sep. 8, 1976).” Roderick J. v. Hart Cnty. Bd. of Educ., Case No. 1991-14 (Ga. SBE, Aug. 8, 1991). In this case, we conclude that the Local Board’s decision to permanently expel the Student was arbitrary and capricious.

As we pointed out in Michael C. v. Houston Cnty. Bd. of Educ., Case No. 1992-19 (Ga. SBE, Sep. 10, 1992), permanent expulsion is the extreme punishment and should only be used in extreme cases. While we do not in any way condone student disrespect for teachers, there are disciplinary measures short of permanent expulsion that were available to the Local Board. The Student was enrolled in the school for only a short period of time, there were no weapons involved, the Student did not attempt to strike or otherwise endanger the teacher, and the Student did not have a history of being a disciplinary problem. Under these circumstances, we conclude that the Local Board’s decision to permanently expel the Student was arbitrary and capricious.

Based upon the foregoing, the State Board of Education is of the opinion that the Local Board’s decision to permanently expel the Student was arbitrary and capricious. The Local Board’s decision, therefore, is reversed and the case is remanded for the Local Board to consider alternative measures of discipline.

This 12th day of May, 1994.

Mr. Billingslea, Mrs. King, Mr. Sessoms and Mr. Williams were not present. Mr. Lathem’s seat is vacant due to his resignation effective December 31, 1993.

Robert M. Brinson
Vice Chairman for Appeals

