

STATE BOARD OF EDUCATION

STATE OF GEORGIA

RON C., :
 :
 :
 Appellant, :
 : **CASE NO. 1994-31**
vs. :
 : **DECISION**
 :
 GWINNETT COUNTY :
 BOARD OF EDUCATION, :
 :
 :
 Appellee. :

This is an appeal by Ron C. (Student) from a decision by the Gwinnett County Board of Education (Local Board) to permanently expel him from school after a Student Disciplinary Tribunal found that on two consecutive days the Student was involved in drive-by shooting incidents directed against the homes of other students in the school that the Student attended. The Student claims that he did not violate any Local Board policy because the events occurred after school hours and after he had arrived home. The Local Board's decision is reversed because the Local Board did not have jurisdiction over the Student at the time of the incidents.

On January 25, 1994, and January 26, 1994, the Student, a fourteen year old eighth grader, left school and went to his home, where he picked up a .22-calibre rifle and joined two other teenagers. One of the other individuals was eighteen years old and drove a car. The three teenagers then drove past the homes of students who attended the same school as the Student attended. The eighteen year old fired the rifle at the houses; the Student loaded the gun and unjammed it several times. On the second afternoon, the group shot at a house that the Student erroneously pointed out as being where another student lived. The shootings were apparently motivated by drug traffic and gang animosity.

The Gwinnett County School System became aware of the shootings when some students went to counselors because they were upset about the shootings. The Student was questioned and admitted his involvement in the shootings. The Student was charged with violating Rules 1(k), 5(c), 6, and 11 of the Local Board's policy regarding student conduct. A Student Disciplinary Tribunal hearing was held on February 11, 1994.

It is fundamental that a local board of education has the authority to control and manage the schools within its jurisdiction, which includes the power to govern the activities of students while they are attending school. It is also fundamental that local boards of education do not have the authority to govern the actions of students after they have arrived at home. The Local Board's Student Conduct Behavior Code recognizes this fundamental precept by providing:

The following rules apply when a student(s) is (are):

- a) On the school grounds;
- b) Of f the school grounds at a school activity, function, or event;

- c) En route to and from school; or
- d) Off the school grounds while the student is in attendance of any school function, or is otherwise subject to the jurisdiction of school authorities.

The evidence in this case shows that on each occasion the Student went to his house and picked up the rifle and then drove to the homes of the other students. Since the Student had arrived at home, the Local Board's rules no longer applied to govern his conduct.

The Local Board argues that since the Student left the school and stopped at his house only momentarily to pick up the rifle, he was engaged in a continuing enterprise from the time he left school until the shootings occurred. Because the Student was engaged in a continuing enterprise, the Local Board argues that the incidental stop at his home should be disregarded. There is, however, no authority for the Local Board's position.

The Local Board also argues that the issue of the applicability of its rules was not raised at the Tribunal hearing or before the Local Board and cannot now be raised for the first time on appeal. While this argument states the general rule, it is inapplicable in the instant case because the question is whether the Local Board had jurisdiction to act on the Student's conduct. Issues of jurisdiction can be raised at any time. Thus, even if the issue of jurisdiction was not raised before the Local Board, the issue is properly before the State Board of Education.

We conclude that the Local Board was without authority to expel the Student for conduct that occurred after the Student arrived home. In reaching this conclusion, we are not unmindful of the tragedies of drive-by shootings and other senseless shootings that are occurring. We do not, however, believe that local boards of education can expect, or can be expected, to control student activities after the student arrives at home.

Based upon the foregoing, it is the opinion of the State Board of Education that the local board exceeded its authority in disciplining the Student for activities that occurred after the Student arrived at his home. Accordingly, the Local Board's decision is REVERSED.

This 14th day of July, 1994.

Mr. Williams was not present. Mr. Sessoms and Mrs. King dissented.

Robert M. Brinston
Vice Chairman for Appeals