

STATE BOARD OF EDUCATION

STATE OF GEORGIA

ROSHON E.,	:	
	:	
Appellant,	:	
	:	CASE NO. 1994-54
vs.	:	
	:	DECISION
BURKE COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

**PART I
SUMMARY**

This is an appeal by Roshon E. (Student) from a decision by the Burke County Board of Education (Local Board) to uphold the decision of a Student Discipline Tribunal to place the Student in an alternative school until the end of the first semester of the 1994-1995 school year because of continual infractions of student disciplinary rules. The Student claims he was denied due process because the School System failed to give him proper notice, and he was not provided with the progressive discipline measures required by Georgia statutes. Additionally, he claims the Local Board's decision was not supported by any evidence because it rests solely on hearsay testimony. Finally, the Student claims that the punishment of assigning him to an alternative school was disproportionate to his offense of being tardy to class. The Local Board counters by arguing that there is some evidence to support its decision, the Student was not denied any due process rights, and the discipline was appropriate. The Local Board's decision is reversed and remanded with direction to the Local Board to conduct another hearing after giving proper notice.

**PART II
FACTUAL BACKGROUND**

During the 1992-1993 and 1993-1994 school years, the Student, who was seventeen years old and in the ninth grade at the time of the Local Board's decision, received 33 disciplinary slips. Thirteen of the slips resulted from the Student being tardy to class, and ten resulted from the Student speaking out in class without being called upon.

On March 31, 1994, the Student was late in arriving at one of his classes. The Student's assistant principal decided to assign the Student to the alternative school. A Student Support Team was assembled to consider the Student's case.¹ The Student Support Team met on April

¹ A student support team is "an interdisciplinary group that addresses the needs of students having problems in school as provided for in rule 160-4-2-.32." GA. Dept. Of Educ. Rules And Regulations § 160-4-2-. 17. "The purpose of the student support team ... is to improve the delivery of instructional services to students

15, 1994, and recommended the Student's assignment to an alternative school. The record does not show that the Student Support Team attempted to consider any options other than referral to the alternative school. The matter was then referred to a Student Discipline Tribunal.

On April 26, 1994, the Local Superintendent sent a letter to the Student's grandmother, who serves as his guardian, to inform her that the Student was charged with violating seven of the school disciplinary rules, all of which related to offenses for which the Student had already been disciplined except for the charge of "repeated violations" and "tardiness." The letter stated that a recommendation would be made to expel the Student from the Burke County School System. The Local Superintendent also stated that the Student had a right to a hearing, that he could employ legal counsel, and could obtain subpoenas for the appearance of witnesses. The letter did not specify how the Student had violated any of the rules and did not provide a summary of the testimony of the witnesses that would appear for the School System. It also did not advise the Student that he had the right to examine and cross-examine witnesses.

The Student Disciplinary Tribunal hearing was held on May 6, 1994. The Student Disciplinary Tribunal received evidence from the Student's principal, assistant principal, and guidance counselor. The Student's principal testified that the Student received 33 disciplinary slips during the 1992-1993 and the 1993-1994 school years. The assistant principal and the principal testified that the Student's grandmother was notified only once -- at the beginning of the 1993-1994 school year -- about any disciplinary problems. The counselor testified about the Student Support Team function and meeting.

PART III DISCUSSION

The Student claims that the School System denied him due process because the notice of his hearing before the Student Disciplinary Tribunal failed to notify him that he had the right to cross-examine witnesses, did not specify how he had violated any rules, and did not provide a summary of the testimony to be provided by the witnesses for the School System. The Local Board claims that the notice was adequate.

In Damon P. v. Cobb Cnty. Bd. of Educ., Case No. 1993-9 (Ga. SBE, May 13, 1993), the State Board of Education held that the notice to the student was inadequate because it did not specify the acts that resulted in charges that the student had violated the rules of conduct of the school system. In the instant case, the Local Board's Policy JDD/JDE requires the notice to provide the Student with "a description of the acts of the student alleged to have violated the rule" and "a summary of the evidence expected to be used in support of the charges." The notice sent to the Student does not contain a description of the acts that allegedly violated the rules, nor does it contain a summary of the evidence to be used in support of the charges. The notice only contains a listing of the rules the Student allegedly violated. Based upon Damon P., *supra*, we conclude that the notice provided by the Local Superintendent to the Student was inadequate.

In Damon P., *supra*, we remanded the case with direction to the local board to conduct another hearing after giving proper notice. We conclude that the same disposition would be appropriate in this case.

Because we decide that the Local Board's decision should be reversed because of the improper notice, we need not address the remainder of the Student's claims.

experiencing problems of an academic, social or behavioral nature in school and to serve as a resource for teachers and other educators in the delivery of these services." Reg. § 160-4-2-.32.

**PART IV
DECISION**

Based upon the foregoing, it is the opinion of the State Board of Education that the notice provided to the Student was deficient. The Local Board's decision, therefore, is hereby reversed and remanded with direction to the Local Board to conduct another hearing after giving proper notice.

This 10th day of November, 1994.

Mr. Sessoms was not present.

Robert M. Brinson
Vice Chairman for Appeals