

STATE BOARD OF EDUCATION

STATE OF GEORGIA

SAM A.,	:	
	:	
Appellant,	:	
	:	CASE NO. 1994-74
vs.	:	
	:	DECISION
TIFT COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by Sam A. (Student) from a decision by the Tift County Board of Education (Local Board) to suspend him for the remainder of the semester after a Disciplinary Tribunal found him guilty of fighting with and injuring another student and imposed a ten-day in-school suspension. The Student claims that the Local Board could not increase his discipline after the time had already been served. The Local Board claims that it has the right to review and change the decisions of the Disciplinary Tribunal. The Local Board's decision is reversed.

On October 25, 1994, the Student was involved in a fight with another Student in the locker room at the end of a first-period physical education class. The other student suffered a concussion during the fight and was admitted to a hospital for observation for three days.

A disciplinary tribunal hearing was held on November 8, 1994, before a Disciplinary Tribunal Hearing Officer. The Disciplinary Tribunal Hearing Officer found that the Student had started the fight, but the Student did not reasonably foresee the consequences of his actions. The Hearing Officer issued a decision on November 11, 1994, that the Student should be given in-school suspension for ten days, with credit for the time he had already been suspended pending the hearing.

On November 18, 1994, after the Student completed his suspension period, the Student's principal appealed the Hearing Officer's decision to the Local Board. On November 28, 1994, the Local Board modified the Hearing Officer's decision and suspended the Student for the remainder of the semester. The Student filed an appeal to the State Board of Education, and the Local Board entered a supersedeas order.

On appeal, the Student claims that the Local Board should have dismissed the principal's appeal because it was filed after the 10-day suspension had already been served. As a result, the Student claims that the Local Board's decision unconstitutionally violates his rights under the Constitution of the United States and the Georgia Constitution by twice placing him in jeopardy for the same action. The Local Board argues that it has the authority to review any decision made by a Disciplinary Tribunal Hearing Officer and to take any action it deems appropriate.

The State Board of Education has previously held that a local board of education can increase the penalty imposed by a tribunal if the local board enters a written decision that explains the basis for the increased penalty. See. Chauncey Z. v. Cobb Cnty. Bd. of Educ., Case

No. 1992-42 (Ga. SBE, Mar. 11, 1993). In Chauncey Z., the local board failed to enter a decision that explained the reason for its increased penalty and the State Board of Education remanded the case for entry of a written decision that explained the reason for the increased penalty. In the instant case, the Local Board also failed to state any reasons for the increased penalty it imposed upon the Student. Consistent with Chauncey Z., the Local Board's decision must be reversed.

A reversal of the Local Board's decision because it failed to enter the reasons why it increased the penalty imposed upon the Student does not answer the fundamental question raised by the Student whether the Local Board has the authority to increase the penalty imposed upon him after he has already served the initial penalty imposed upon him.

The Local Board argues that there is nothing in law that prevents it from imposing a greater disciplinary measure, even if the initial sanctions have already been completed. Thus, Rule 42 of the Local Board's rules provides:

Any action taken by such officer... shall be subject to modification by the local school board on appeal.

Similarly, O.C.G.A. § 20-2-755 permits a local board of education to modify the decision of a disciplinary hearing officer. Notwithstanding the Local Board's citations, however, we hold that a school administration cannot appeal the decision of a tribunal after the sanctions imposed by the tribunal have been carried out.

After a student has repaid the debt that society has demanded, society cannot thereafter decide that the debt was too lenient. After a student has been disciplined for an incident following a formal hearing, the matter should be ended unless the student decides to appeal. The school administration has the power and authority to suspend disciplinary measures imposed by a tribunal if the administration is dissatisfied with the tribunal's decision. If, however, the disciplinary measures are carried out without limit, then the school administration has nothing to lose in appealing the decision of the tribunal. The only purpose of an appeal then becomes to impose greater sanctions because the school administration does not have anything to lose in pursuing an appeal. The student's only hope during an appeal is the restoration of any grades that may have been reduced as a result of a suspension. If an appeal can be made after the suspension period has been served, then the appeal does not have any benefit in store for the student; only the school administration's position vis-a-vis the student's position can be enhanced. At some point, there has to be a limit on the power the state can exercise against an individual. We conclude, therefore, that a school administration cannot appeal a tribunal's decision after the sanctions imposed by the tribunal have been met by the student.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board denied the Student substantive due process by imposing greater sanctions against the Student after he had already satisfied the sanctions that were initially imposed by the Disciplinary Tribunal Hearing Officer. The Local Board's decision, therefore, is hereby REVERSED.

This 9th day of March, 1994.

Mr. William Teasley was not present. Mr. Owens voted to sustain the Tift County Board of Education.

Robert M. Brinson
Vice Chairman for Appeals