

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JOSH G.,	:	
	:	
Appellant,	:	
	:	CASE NO. 1995-7
vs.	:	
	:	
CALHOUN CITY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	
	:	
	:	
ZACK T.,	:	
	:	
Appellant,	:	
	:	CASE NO. 1995-8
vs.	:	
	:	
	:	DECISION
CALHOUN CITY	:	
BOARD OF EDUCATION,	:	
	:	
	:	
Appellee.	:	

Josh G. and Zack T. have appealed from decisions by the Claxton City Board of Education (Local Board) to suspend them for the remainder of the 1994-1995 school year and assignment to an alternative school beginning in the 1995-1996 school year after a Student Disciplinary Tribunal found them guilty of possession of a gun at school and decided they should be permanently expelled. The cases arise from the same incident and have been consolidated for appeal. Both students claim that the punishment is too harsh. The Local Board's decision is sustained.

On October 17, 1994, Zack T., an eighth-grader, brought a loaded .25-calibre semi-automatic pistol to school. He showed the gun to some other students, including Josh G., who is also in the eighth grade, at the beginning of the school day. During fifth period, Josh wanted to see the pistol again. Zack T. removed the bullets from the clip and gave the pistol to Josh G. Josh G. took the pistol to physical education class during sixth period and placed it in his locker. He intended to return the pistol to Zack T., but was unable to find him so he took the pistol home. That night, the two talked on the telephone and decided that too many people were aware of the pistol. Josh G. then took the pistol outside his house and threw it into the woods beside his house.

The middle-school principal learned about the pistol late on the night of October 17, 1994. The next morning, the students cooperated in recovering the pistol. During the principal's investigation, Josh G. disclosed that there was a bullet in the pistol's chamber that he removed before he threw it into the woods. Both students were suspended from school and charged with possession of a weapon on campus. The principal recommended permanent expulsion.

Separate Student Disciplinary Tribunal hearings were conducted on November 21, 1994, following a delay requested by the students. Both students admitted to possessing the pistol on campus. The Student Disciplinary Tribunal decided to permanently expel both students and they appealed to the Local Board. On December 21, 1994, the Local Board decided that the students should only be expelled during the remainder of the 1994-1995 school year and then be readmitted to an alternative school at the beginning of the 1995-1996 school year. Both students then appealed to the State Board of Education.

Josh G. claims on appeal that the expulsion violates his constitutional right to a free public education. He also claims that he did not have notice of the sanctions for carrying a weapon on campus. Additionally, he claims he has been denied equal protection of the laws because other violators of the weapons policy have not been permanently expelled. Zack T. claims that the punishment is too harsh and that the Local Board failed to consider other forms of discipline.

Issues not raised before the hearing tribunal or local board cannot be raised for the first time upon appeal to the State Board of Education. See, Walton v. Upon Cnty. Bd. of Educ., Case No. 1985-13 (Ga. SBE, Oct. 10, 1995). The State Board of Education is confined to the record and cannot consider additional evidence on appeal. O.C.G.A. § 20-2-1160. In Josh Gs case, the issue of disparate treatment was not raised before either the Student Disciplinary Tribunal or the Local Board. Additionally, there was no evidence presented that the students did not have notice about the sanctions involved in violating the weapons policy. As a result, neither the claim of disparate treatment or lack of notice can be considered by the State Board of Education.

Josh G. also claims that he is being denied his constitutional right to a free public education. The Local Board, however, has not denied him the right to an education; it has given him a long-term expulsion because he violated the weapons policy and he can return to an alternative school at the beginning of the 1995-1996 school year. Local boards of education have statutory authority to impose long-term expulsion. See, O.C.G.A. § 20-2-755. The State Board of Education, therefore, concludes that Josh Gs claim that he has been denied a free, public education is without merit.

"A local board of education ... is charged with the responsibility of managing the operation of its schools, and, in matters of discipline, the State Board of Education cannot substitute its judgment for the judgment of the local board. See, Boney v. County Board of Education of Telfair County, 203 Ga. 152 (1947); Braceley v. Burke County Bd. of Ed., Case No. 1978-7." Joseph N. v. Jasper Cnty. Ed. of Educ., Case No. 1981-40 (Ga. SBE, Feb. 11, 1982). As indicated, above, the Local Board has statutory authority to expel a student for a long term. There is no evidence that the Local Board failed to consider other alternatives, but it is apparent that the Local Board did consider alternatives because it changed the Student Disciplinary Tribunal's decision of permanent expulsion to expulsion for the remainder of the school year and admittance to an alternative school at the beginning of the 1995-1996 school year. The State Board of Education, therefore, concludes that the punishment was within the Local Board's discretion and the decision was not arbitrary or capricious.

Based upon the foregoing, the State Board of Education is of the opinion that the decisions by the Local Board were within their authority, and the decisions did not violate any rights of the students. Accordingly, the Local Board's decision in both cases is

SUSTAINED.

This 11th day of May, 1995.

Mrs. King, Mr. Sessoms and Mr. Williams were not present.

Robert M. Brinson
Vice Chairman for Appeals