STATE BOARD OF EDUCATION

STATE OF GEORGIA

KELVIN G., :

Appellant, :

: CASE NO. 1995-14

DECISION

vs. :

BEN HILL COUNTY:

BOARD OF EDUCATION,

:

Appellee. :

This is an appeal by Kelvin G. (Student) from a decision by the Ben Hill County Board of Education (Local Board) to uphold the decision of a Student Disciplinary Tribunal to suspend the Student from school from January 13, 1995, until January 19, 1995, because he was rude and disrespectful towards an assistant principal and refused to obey the assistant principal. The Student claims that the punishment is too harsh because he did not violate any rules or regulations of the Local Board. The Local Board's decision is sustained.

On December 14, 1994, the Student was found using a school telephone during his lunch period in violation of instructions given by the principal that students were not to use the school telephones or be in the hallway without a pass signed by a teacher. The assistant principal reprimanded the Student but did not impose any disciplinary measures against the Student. The following day, the assistant principal again found the Student using the school telephone. The Student was then taken by the assistant principal to the assistant principal's office and told that he would be suspended. The Student became argumentative and left the assistant principal's office without permission. The assistant principal called him back into the office and gave him the suspension papers. The Student walked out of the office and threw the papers into the hallway. When the assistant principal told the Student to retrieve the papers, the Student began arguing again. The situation escalated to the point that the assistant principal had the police called to remove the Student from the campus.

A Student Disciplinary Tribunal conducted a hearing on January 10, 1995. On January 13, 1995, the Tribunal issued its decision to suspend the Student until January 19, 1995. The Student appealed to the Local Board, but the Local Board upheld the Tribunal's decision. The Student then appealed to the State Board of Education.

On appeal to the State Board of Education, the Student claims that the decision was too harsh. The Student also argues that the student handbook did not bar his use of the telephone and the assistant principal should not have attempted to discipline him in the first instance.

Although the suspension period has passed, the issues raised by the Student are not moot because the suspension resulted in his loss of grades that prevent him from graduating. The Student's appeal, therefore, is not dismissed for being moot.

Nevertheless, "The control and management of the public schools constitutionally rests with the county board of education and such control and management will not be interfered with except where that control and management is contrary to law. See, Colson v. Hutchinson, 205 Ga. 559, 67 S.E.2d 764 (1951); Bonev v. County Board of Education for Telfair County, 203 Ga. 152 (1947)." Martinius C. v. Griffin-Spalding County Bd. of Educ., Case No. 1992-12 (Ga. SBE, Jul. 9, 1992). The Student was suspended for three days for being rude and disrespectful towards the assistant principal and for refusing to follow the directions given to him by the assistant principal. Such a short-term suspension is not contrary to law.

The State Board of Education is of the opinion that the Local Board acted within its authority and the suspension was not contrary to law. The Local Board's decision, therefore, is SUSTAINED

This 8th day of June, 1995.

Robert M. Brinson Vice Chairman for Appeals