

STATE BOARD OF EDUCATION

STATE OF GEORGIA

RYAN B.,	:	
	:	
Appellant,	:	
	:	CASE NO. 1995-24
vs.	:	
	:	DECISION
GWINNETT COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by Ryan B. (Student) from an April 10, 1995, decision by the Gwinnett County Board of Education (Local Board) to suspend him from school until June 8, 1995, and requiring him to appear before a panel before being re-admitted in the fall of 1995. The Student claims that the Local Board improperly imposed the requirement that he appear before another panel before being re-admitted for the 1995-1996 school year. The Local Board's decision is reversed.

On March 6, 1995, a Student Disciplinary Tribunal decided to suspend the Student from all regular Gwinnett County schools until June 8, 1995, with permission to attend an alternative school for the remainder of the 1994-1995 school year. When the Student applied to the alternative school for admission, he was denied entrance. Because he was denied entrance to the alternative school, the Student appealed the Student Disciplinary Tribunal's decision to the Local Board. The Local Board upheld the Tribunal's decision to suspend the Student through June 8, 1995, but denied him the opportunity to attend the alternative school and further imposed the requirement that he attend a hearing before being re-admitted for the 1995-1996 school year.

The Local Board argues that the appeal is moot because the suspension period is over and the outcome of a future hearing is speculative. The Student, however, has been denied fundamental procedural and substantive due process which has resulted in sanctions being imposed upon him such that he should not have to appear for a future hearing.

In Goss v. Lopez, 419 U.S. 565, 95 S.Ct. 729, 42 L.Ed.2d 725, (1975), the Supreme Court held that a student cannot be suspended for more than ten days without a hearing. Georgia law similarly requires a hearing if a student is to be suspended for more than ten days. See, O.C.G.A. § 20-2-750 et seq.

In the instant case, the Student Disciplinary Tribunal only suspended the Student from regular classes; it did not suspend him from all classes, but permitted him to enter the alternative school for the remainder of the school year. When the Student applied for admission at the alternative school, he was denied permission to attend, which had the effect of suspending him from school for more than ten days without any explanation or hearing.¹

¹ The record does not contain any correspondence or evidence concerning the decision to deny the Student entrance in the alternative school.

When the Student complained to the Student Intervention Coordinator, he was told to file an appeal with the Local Board. Proceeding pro se, the Student filed an appeal with the Local Board to permit him to attend school.² Instead of limiting his appeal to permitting his entrance into the alternative school, the Student appealed the entire decision of the Student Disciplinary Tribunal. Without stating any reasons, and without conducting a hearing, the Local Board decided to suspend the Student from all instruction until June 8, 1995, and imposed the additional requirement that the Student appear for a hearing before he could be admitted for the 1995-1996 school year. A local board of education, however, cannot impose any harsher punishment than that imposed by a student disciplinary tribunal if the local board does not provide an explanation for the harsher punishment. Chauncey Z. v. Cobb Cnty. Bd. of Educ., Case No. 1992—42 (Ga. SBE, Mar. 11, 1993)

The actions by the Gwinnett County School System and the Local Board have denied the Student due process. The Student was first denied entry in the alternative school without a hearing. As a result, he was suspended from school for more than ten days without receiving the rudimentary due process required in Goss v. Lopez, supra. This error was then compounded when the Local Board also decided to deny the Student the opportunity to enroll in the alternative school without providing any reasons. The Student was also misled by the Student Intervention Coordinator, who told the Student to appeal the Student Disciplinary Tribunal's decision to the Local Board when the Student merely wanted to be able to follow the decision of the Student Disciplinary Tribunal. We, therefore, conclude that the Local Board abused its discretion and denied the Student due process.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board abused its discretion and denied the Student due process. Accordingly, the Local Board's decision is
REVERSED.

This 10th day of August, 1995.

Messrs. Sessoms, Teasley and Williams were not present. The seat for the Tenth District is vacant.

Robert M. Brinson
Vice Chairman for Appeals

² The proper course of action would have been to file a mandamus action with the superior court to enforce the decision of the Student Disciplinary Tribunal.