

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JONATHAN M.,

Appellant,

vs.

GWINNETT COUNTY
BOARD OF EDUCATION,

Appellee.

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CASE NO. 1996-8

DECISION

This is an appeal by Jonathan M. (Student) from a decision by the Gwinnett County Board of Education (Local Board) to uphold the decision of a Student Disciplinary Tribunal to expel him for the remainder of the 1995-1996 school year, with the opportunity to attend an alternative school, after he was found smoking in a restroom at school and in possession of a controlled substance (Ritalin). The Student claims that the decision is too harsh and the Local Board failed to consider that he should be in a special education class. The Local Board’s decision is sustained.

On January 5, 1996, a Student Disciplinary Tribunal conducted a hearing on charges that the Student was smoking cigarettes and possessed drugs and drug paraphernalia, including unauthorized prescriptions, while on campus in violation of Local Board policies. The Student, who is in the eighth grade, admitted to smoking on campus and possessing crushed Ritalin and a razor blade in his book bag on December 8, 1995. Evidence was presented that the Student was in special education classes in the sixth grade, but returned to regular classes for the seventh and eighth grades.

The Student Disciplinary Tribunal decided to expel the Student for the remainder of the 1995-1996 school year with the provision that he could attend an alternative school. On January 25, 1996, the Local Board affirmed the Student Disciplinary Tribunal’s decision and the Student appealed to the State Board of Education.

“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 M v. Jasper Cnty. Bd. of Educ.*, Case No. 1981-40 (Ga. SBE, Feb. 11, 1982). In this case, there is no evidence the Local Board abused its discretion or that there is any other basis for not upholding the Local Board’s decision.

The Student claims that the Local Board should have taken into consideration that he should be in special education classes. There was, however, no evidence presented to the Student Disciplinary Tribunal that the Student should be in special education classes. The placement of a student in special education classes is rigidly controlled under the Individuals with Disabilities Act, 84 Stat. 175, as amended, 20 U.S.C. § 1400 *et seq.* (IDEA) and cannot be done simply on the basis of a student's academic record. Instead, IDEA requires a student to be evaluated and admitted to special education only if certain procedures are followed so that students are not arbitrarily placed in special education classes. Additionally, the issue was raised before the Local Board so the claim cannot be made that the Local Board did not take the matter into consideration.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board acted within its authority. Accordingly, the Local Board's decision is SUSTAINED.

This 9th day of May, 1996.

Ms. Barbara King, Mr. Dick Owens, Ms. Julie Keeton, Mr. Walt Sessotns and Mr. Ed Floyd were not present.

Robert M. Brinson
Vice Chairman for Appeals