

STATE BOARD OF EDUCATION
STATE OF GEORGIA

JULIE R.,	:	
	:	
Appellant,	:	
	:	CASE NO. 1996-22
vs.	:	
	:	DECISION
HALL COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by Julie R. (Student) from a decision by the Hall County Board of Education (Local Board) to uphold the decision of a Student Disciplinary Tribunal to suspend her out-of-school for ten days and in-school for ten days, deny her driving privileges for one year, and place her on a one-year suspension because a pistol was found in the truck she drove to school. The Student claims the Local Board's decision was erroneous because she was unaware the pistol was in the vehicle and did not have any intent to bring it to school. The Local Board's decision is sustained.

On Friday, February 9, 1996, the Student's father placed a pistol in the pickup truck she was driving because she was making a late night trip. The Student's father told her not to handle the pistol unless there was an emergency. The Student and her father understood that the father would remove the pistol when she returned. The Student's father, however, forgot to remove the pistol.

During the following week, the Student drove to school without checking whether the pistol was in the truck. On Thursday, February 15, 1996, one of the Student's passengers placed her pocketbook under the seat on the passenger side and noticed the pistol, which was in a zippered case. The passenger told a teacher that the Student had a gun in her vehicle. The Student's principal called her and asked whether there was a gun in the vehicle. The Student said she was unaware if there was a pistol in the truck. The Student and the principal went to the vehicle and found the pistol under the seat on the passenger side.

A Student Disciplinary Tribunal heard the case on February 21, 1996. The Tribunal decided that the Student was guilty of possessing a gun on campus and suspended her for twenty days, with ten days being out-of-school, and ten days in-school. The Tribunal also revoked the Student's driving privileges and placed her on a one year probation. Upon appeal to the Local Board, the Local Board revised the punishment to provide that the Student could make up her grades for the ten days she was suspended out-of-school.

The Student appealed to the State Board of Education and contends that the Tribunal erred in finding her guilty because there was no intent on her part to bring the weapon to school. In addition, the Student claims that the Local Board erroneously considered information that was not presented at the hearing because it discussed the fact that the Student withdrew from school on the day following the Tribunal's decision. The Local Board claims that the issues are moot because the Student has withdrawn from school.

The first issue is whether the appeal is moot because the Student withdrew from school. The Student's withdrawal does not affect the applicability of the Local Board's decision. If the Student attempted to re-enroll at the beginning of the 1996-1997 school year, she would be subject to the Local Board's decision. A decision by the State Board of Education at this time can provide the Student with some relief. The State Board of Education, therefore, concludes that the issues raised by the appeal are not moot.

Appellant next claims that there was no evidence she was aware the pistol was in her car, and some degree of intent is required before a student can be found guilty of violating the rule. The Local Board argues that it has adopted a zero-tolerance policy and it is unnecessary to show intent.

In *Lackey v. Clayton Cnty. Bd. of Educ.*, Case No. 1994-17 (Ga. SBE, May 12, 1994), we held in a similar case that a teacher who was unaware of the presence of a pistol in his car could not be discharged in the absence of some evidence he knew or should have known the gun was in his car. In the instant case, the Student was aware that her father placed the pistol in the truck, but she was unaware that he did not take the pistol out. Under these circumstances, we believe the Local Board has sustained its burden of proof that the Student knew or should have known that the pistol was in the truck. When the Local Board established that the Student was aware that her father placed the pistol in the truck, it was not then necessary for the Local Board to refute that someone else failed to remove the weapon. When the Student became aware that the pistol was in her truck, it then became her responsibility to be sure the pistol was removed before she drove the truck on campus. The State Board of Education, therefore, concludes that there was evidence in the record to sustain the Local Board's decision.

Based upon the foregoing, it is the opinion of the State Board of Education that there was evidence before the Local Board that supports its decision. The Local Board's decision, therefore, is
SUSTAINED.

This 11th day of July, 1996.

Mr. Brinson, Mr. Sessoms, Mr. McGlamery, and Mr. Floyd were not present. The seat for the Eleventh District is vacant.

J. T. Williams, Jr., Chairman
State Board of Education