

STATE BOARD OF EDUCATION

STATE OF GEORGIA

W. M.	:	
	:	
Appellant,	:	
	:	CASE NO. 1996-59
vs.	:	
	:	DECISION
WILKINSON COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by W. M. (Student) from a decision by the Wilkinson County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to suspend him for the first semester of the 1996-1997 school year and assignment to an alternative school at the beginning of the second semester after the tribunal found that he had possessed marijuana on campus. The decision of the Local Board is sustained.

The Student is a fifteen-year-old tenth grader. At the end of the first day of school of the 1996-1997 school year, a teacher discovered the Student and two other students in the boy's restroom with a marijuana cigarette burning on the floor. The Student and one of the other students fled the scene. The teacher took the remaining student to the principal. After conducting an investigation, the principal turned the matter over to a disciplinary tribunal for a hearing on charges that the Student possessed and smoked a marijuana cigarette on school grounds. The student disciplinary tribunal found the Student guilty of possessing marijuana and suspended him for the first semester and assignment to an alternative school beginning with the second semester of the 1996-1997 school year. The Student filed an appeal with the State Board of Education after the Local Board sustained the tribunal's decision.

The Student claims on appeal that he was denied due process in the hearing before the student disciplinary tribunal because: (1) the Local Superintendent observed the proceedings, (2) the principal was not sequestered, and (3) he was unable to voir dire the members of the tribunal. In addition, the Student claims the student disciplinary tribunal should have granted his motion for a directed verdict, that there was no evidence to support the tribunal's decision, and that the punishment imposed exceeded the punishment set out in the Local Board's policy.

The Student has not cited any law to support his position that the Local Superintendent could not observe the proceedings. Although he claims the Local Superintendent's presence improperly influenced the tribunal members, there is no evidence that such influence existed. The State Board

of Education concludes that the Local Superintendent's presence during the hearing did not violate the Student's due process rights.

The principal served as the school system's representative during the hearing. As the representative, the principal had the right to be present during the entire hearing. The State Board of Education concludes that the Student's due process rights were not violated by the principal's presence.

There is no provision for voir dire of the tribunal members. The tribunal members sit in the capacity of a judge without a jury and not as jurors. The State Board of Education concludes that the Student's due process rights were not violated by his inability to voir dire the tribunal members.

The Student's claims that the tribunal should have granted his motion for directed verdict and that there was insufficient evidence to support the tribunal's decision go to the credibility of the witnesses. The tribunal heard from the teacher who entered the restroom and discovered the students and the marijuana cigarette. This evidence was sufficient to establish a prima facie case of possession against each of the students. The standard for review by the State Board of Education is that if there is any evidence to support the decision of the local board of education, then the local Board's decision will stand unless there has been an abuse of discretion or the decision is so arbitrary and capricious as to be illegal. See, Ransum v. Chattooga County Bd. of Educ., 144 Ga. App. 783 (1978); Antone v. Greene County Bd. of Educ., Case No. 1976-11 (Ga. SBE, Sep. 8, 1976). Roderick J. v. Hart Cnty. Bd of Educ., Case No. 1991-14 (Ga. SBE, Aug. 8, 1991). The State Board of Education concludes there was evidence to support the tribunal's decision and there was no error in denying the Student's motion for directed verdict.

The Student's final claim of error is that the decision imposed a punishment that exceeded the Local Board's policy. The Local Board's policy provides that a student found with any drugs will be suspended for an initial ten days with the possibility of the matter being turned over to disciplinary tribunal. The Student claims that the policy limits the length of discipline to ten days. The Student's claim is contrary to the plain language of the policy. The State Board of Education concludes that the punishment did not exceed the Local Board's policy.

Based upon the foregoing, it is the opinion of the State Board of Education that the Student was not denied any of his due process rights and there was evidence to support the Local Board's decision. The Local Board's decision, therefore, is SUSTAINED.

This 16th day of January, 1997.

Mr. Larry Thompson
Vice Chairman for Appeals