

STATE BOARD OF EDUCATION

STATE OF GEORGIA

C. H.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2000-33
	:	
CHATHAM COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by C. H. (Student) from a decision by the Chatham County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to permanently expel her, with the option of attending an alternative school, after finding her guilty of bringing firecrackers to school. The Student claims that the Local Board denied her due process because it did not provide her a hearing within ten days after suspending her from school and assigning her to an alternative school pending the hearing. The Local Board's decision is sustained.

On February 2, 2000, the Student, an eleven-year-old sixth grader, brought eight packages of firecrackers to school and was discovered. None of the firecrackers had been removed from the packages. The Student was suspended and sent to alternative school pending a hearing. The Student alleged in a motion to dismiss at the beginning of her hearing before a student disciplinary tribunal that her parent was notified on the tenth day of her suspension and asked to sign a waiver of any need to conduct the hearing within ten days. The Student also alleged that the school authorities misled her mother into thinking that if she did not sign the waiver, then the Student would not receive a hearing. Upon learning that the waiver was unnecessary for a hearing, the Student's mother rescinded her waiver. A hearing before a student disciplinary tribunal was held on March 14, 2000, 41 days after the Student was suspended. The student disciplinary tribunal hearing officer, without taking any testimony, denied the Student's motion on the ground that the school system was not responsible for the delay because there were so many disciplinary hearings they could not be held within ten days.

During the hearing, the evidence showed that the Student had never been involved in any previous disciplinary matter and (a) intended to give them to another student, or (b) accidentally brought them to school when she put on a jacket upon her mother's insistence and the firecrackers were in the jacket pocket. Nevertheless, the tribunal permanently expelled the Student with the option of attending an alternative school. Upon appeal to the Local Board, the Local Board upheld the tribunal decision. The Student then filed an appeal with the State Board of Education.

On appeal to the State Board of Education, the Student claims that the Local Board denied her due process because it did not provide her with a hearing within ten days after she was suspended and assigned to an alternative school. The Local Board argues that the hearing could be delayed because the Student posed a threat to other students, property, and the academic process. Additionally, the Local Board claims that the hearing could be delayed because it was not responsible for the delay; the delay resulted from there being so many disciplinary cases pending.

It is a denial of due process to suspend a student for more than ten days without giving the student an opportunity to hear any charges against them and to tell their side of the story. *See, Goss v. Lopez, 419 U.S. 565, 95 S.Ct. 729, 42 L.Ed.2d 725 (1975); S. R. v. Wheeler Cnty. Bd. of Educ., Case No. 1997-26 (Ga. SBE, Sep. 11, 1997)*. Although there was no evidence that the Student posed a threat to the other students, the school, or the educational process, the Student's mother agreed to delay the hearing beyond the ten day limit of *Goss*. There was no evidence of how long after the Student's mother rescinded her waiver that it took to hold the hearing. Since she signed a waiver, however, the Student cannot now complain that she was denied due process because the Local Board acted in reliance on the waiver.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board did not deny the Student due process in holding the hearing more than ten days after the Student was suspended because of the Student's mother's initial waiver. Accordingly, the Local Board's decision is
SUSTAINED.

This _____ day of August 2000.

Bruce Jackson
Vice Chairman for Appeals