

STATE BOARD OF EDUCATION

STATE OF GEORGIA

H. L. G.,

Appellant,

vs.

**GWINNETT COUNTY
BOARD OF EDUCATION,**

Appellee.

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CASE NO. 2002-32

DECISION

This is an appeal by H. L. G. (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 from regular school until December 4, 2002 after finding him guilty of being rude and disrespectful, making expressions that undermine authority, failing to follow directions, violating local school rules, and chronic disruption of school rules. The Student claims that he was denied due process because school officials failed to hold conferences with his parent and because his discipline record was submitted to the tribunal before there was a finding of guilt. The Local Board's decision is sustained.

On November 16, 2001, the Student's teacher confiscated his hat after the Student put on the hat and put his head down on his desk near the end of his German class. After the class was over, the Student went to the teacher and asked the teacher to return his hat. She refused and asked the Student to leave. The Student persisted in asking for his hat and the teacher kept refusing and telling him to leave the classroom. After the teacher had asked him to leave five times, the Student finally left. At the end of the school day, the Student returned to the German classroom and again asked the teacher to return his hat. The teacher again refused and the Student said she needed to return his hat or she owed him \$30. The teacher asked him if he was threatening her and he responded that he was not making a threat but was merely voicing an opinion. The teacher felt the Student was disrespectful and rude even though he was calm, did not raise his voice, and did not make any derogatory comments.

The Student was charged with being rude and disrespectful, making expressions that undermine authority, failing to follow directions, violating school rules and chronic disruption of school rules. After hearing the testimony of the teacher and the Student, a student disciplinary tribunal found the Student guilty of all the charges except chronic disruption of school rules, and expelled him from regular school for one year, until December 4, 2002, with the option of attending an alternative school during the expulsion period. The Local Board upheld the tribunal's decision when the Student appealed. The Student then filed an appeal to the State Board of Education.

On appeal, the Student claims that a meeting was not held with his parent by school personnel before he was subjected to the chronic disruption charges. The Student also claims that evidence of his past discipline record was admitted before finding of guilt was made on the charges arising from the November 16, 2001 incident, which had the effect of prejudicing the tribunal members against his position.

Since the tribunal did not find the Student guilty of the chronic disruption charges, the failure to have a meeting with the Student's parent was harmless. The lack of a meeting does not impact any of the other charges upon which the Student was found guilty.

The Student was charged with chronic disruption, which required evidence of the Student's disciplinary history to sustain the charge. It was not; therefore an error to submit the discipline record before a finding of guilt was made.

"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, 242 S.E.2d 374 (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). Since there was some evidence that the Student failed to follow directions and had his hat on in the classroom in violation of the local rules, the State Board of Education is bound to uphold the Local Board's decision.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board did not commit any procedural error that requires reversal of the Local Board's decision. Accordingly, the Local Board's decision is
SUSTAINED.

This ____ day of June 2002.

Bruce Jackson
Vice Chairman for Appeals