

STATE BOARD OF EDUCATION

STATE OF GEORGIA

V. F.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2003-24
	:	
FULTON COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by V. F. (Student) from a decision by the Fulton County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him from school for twelve months with the option of attending alternative school during the expulsion period after finding him guilty of having a gun in his car on campus. The Student claims that he was improperly denied his fourth amendment right of avoiding unreasonable searches and his Fifth Amendment right against self-incrimination. The Local Board’s decision is sustained.

On September 12, 2002, school authorities found two BB guns and a sawed-off shotgun in the Student’s car, which was parked on the campus of his high school. The Student was charged with violating the Local Board’s rules against possessing BB guns and shotguns on school grounds and the failure to comply with school rules. A student disciplinary tribunal found the Student guilty and expelled him from regular school for one year and gave him the option of attending an alternative school during the expulsion period. The Local Board upheld the tribunal’s decision when the Student appealed, but added the proviso that the Student would be able to participate in graduation with his regular class upon successful completion of his coursework. The Student then appealed to the State Board of Education. On appeal to the State Board of Education, the Student claims that (1) he was not given a *Miranda* warning before he was questioned, (2) the school resource officer did not have probable cause to search his automobile, (3) the hearing officer denied him due process by improperly ruling that an administrative report was unnecessary, and (4) the Local Board made arguments to the State Board of Education that were not made before the Local Board.

The Student claims his rights under the Fifth Amendment of the Constitution of the United States were violated because he was not given a *Miranda* warning before he told school officials he had two BB-guns in his car.¹ He claims he was entitled to a *Miranda* warning because he was questioned by the school resource officer, who is a certified law enforcement officer. The Student, however, has confused the requirements of criminal proceedings with the requirements of an administrative proceeding such as a student disciplinary tribunal. Although

¹ *Miranda v. Arizona*, 384 U.S. 436 (1966)(detailed statement of right to avoid self-incrimination required in a criminal investigation).

the failure to provide a *Miranda* warning can result in the exclusion of evidence in a criminal proceeding, the courts have not held that there is any requirement for a *Miranda* warning in an administrative proceeding.

The Student next claims that his rights under the Fourth Amendment of the United States Constitution were violated because the resource officer did not have probable cause to search his vehicle, which should have resulted in the exclusion of the guns from evidence. The Student's argument, however, overlooks the fact that he told the resource officer that he had two BB-guns in his car. With the knowledge that the Student had weapons in his car, the resource officer had probable cause to search the car.

On September 11, 2002, a teacher overheard two students talking and concluded they were talking about a gun in another student's car. The teacher determined that it was the Student who the two were talking about. The next day, the teacher reported what he had overheard and learned. The Student claims that the teacher's failure to report the conversation until the next day establishes that the resource officer did not have probable cause to search Student's car. It was, however, immaterial what knowledge the resource officer had, when the teacher obtained his information, and whether the resource officer knew which car the Student drove because the search was based on the Student's admission that he had the BB-guns in his car. The State Board of Education, therefore, concludes that the Student's rights under the fourth amendment of the United States Constitution were not violated and it was not error for the hearing officer to admit the guns into evidence.

The school system requires school officials to file an incident report whenever a student's car is searched. During the hearing, the Student asked for the incident report, but the school officials could not produce the report, either because it was lost or it was never prepared. The Student now claims that the failure to produce the report denied him due process. The Student, however, has not shown how he was harmed by the absence of the incident report. The record does not contain any indication of the purpose served by the report. From its description, it appears that the report is merely a data gathering form that would not provide any benefit to the Student unless there was some argument about what was found in the car or when the discovery took place. The State Board of Education, therefore, concludes that there was no error committed by the school system's failure to produce the report.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board did not infringe upon any of the Student's rights under the United States Constitution. Accordingly, the Local Board's decision is SUSTAINED.

This _____ day of March 2003.

Wanda Barrs
Chairperson, State Board of Education