

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

**M. K.,**

**Appellant,**

**vs.**

**SAVANNAH-CHATHAM COUNTY  
BOARD OF EDUCATION,**

**Appellee.**

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**CASE NO. 2008-61**

**DECISION**

This is an appeal by M. K. (Student) from a decision by the Savannah-Chatham County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him from his regular school after school authorities found a knife in the car he was driving. The Student claims that he was unaware there was a knife in the car because it was a borrowed car.

The Student, an eleventh grader, borrowed his cousin's car to go to school while his car was being repaired after being involved in an accident. On February 26, 2008, the police conducted a random drug search with drug-sniffing dogs in the parking lot of the high school where the Student had parked the car. The dogs alerted on the borrowed car and the Student was asked to open the car while the police searched for drugs. The police did not find any drugs, but they found a paring knife with a blade longer than three inches in length underneath the seat on the passenger side. The Student was charged with possessing a weapon on campus.

During the hearing on the charges before a student disciplinary tribunal, the Student testified that he had borrowed the car from his cousin to drive to school because he had been involved in an accident with his car and it was being repaired. He testified that he was unaware there was a knife in the car. The tribunal, however, found the Student guilty of possessing a weapon on campus and expelled him from school. When the Student appealed to the Local Board, the Local Board modified the punishment to provide that the Student could re-enter school in August 2008 if he enrolled in an alternative school. The Student then appealed to the State Board of Education.

The Student claims that he did not intend to bring a knife to school and, therefore, should not have been found guilty of violating the Local Board's policy that prohibits the possession of a knife with a blade of any length. The tribunal, however, did not accept the Student's explanation. Because the tribunal sits as the trier of fact, it decides which evidence to accept. "When that judgment has been made, the State Board of Education will not disturb the finding unless there is a complete absence of evidence." F. W. v. DeKalb Cnty. Bd. of Educ., Case No. 1998-25 (Ga. SBE, Aug. 13, 1998). Here, the Student had control of the car for enough time to permit him to examine the car and remove any unlawful items. The State Board of Education, therefore, concludes that there was evidence to support the decision to expel the Student for possessing a knife on campus.

We, however, find the Local Board's decision problematic because it fails to address the Student's situation. The Local Board's decision provides that the Student could appear before the Local Board in August 2008 to return to his school "but only if he immediately enrolls in Pathways to Success." The Student's parents, however, decided to home school him. The Student, therefore, does not know whether his successful completion of a home schooling regimen is sufficient to permit him to petition the Local Board to return to school at this time. The Local Board needs to provide the Student with direction about whether he can now return to school.

Based upon the foregoing and a review of the record, it is the opinion of the State Board of Education that there was evidence to support the Local Board's decision, but the Local Board needs to provide direction to the Student regarding his present circumstances. Accordingly, the Local Board's decision is sustained, but this case is remanded to the Local Board and the Local Board is directed to provide the Student with a clear statement of his status about returning to school.

This \_\_\_\_\_ day of October 2008.

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William Bradley Bryant  
Vice Chairman for Appeals