

offense for which suspension or expulsion could be imposed in the enrolling school.

O.C.G.A. § 20-2-751.2(a) provides that a disciplinary order “means any order of ... a private school in this state ... which imposes short-term suspension, long-term suspension, or expulsion upon a student in such system or school.”

O.C.G.A. § 20-2-751.2(c) provides:

A local school system ...may request of another school system ...whether any disciplinary order has been imposed by the other school system ... upon a student who is seeking to enroll ... in the requesting system or school. If such an order has been imposed and is still in effect for such student, the requested school system or private school in this state shall so inform the requesting system or school and shall provide a certified copy of the order to the requesting system or school.

In the instant case, since the Student withdrew without receiving any discipline from the private school, a disciplinary order was never created. Evidence was presented, however, that, in response to a demand for a certified disciplinary order, the private school responded in writing and stated that the school’s disciplinary policy provided for expulsion if a student did not withdraw, but, since the Student withdrew, an “action of expulsion was not formally enacted.”²

The Student argues that the School Safety Act requires 1) a disciplinary order and 2) a certified copy of the disciplinary order, and, since a disciplinary order was never entered, the Local Board is without authority to prevent him from enrolling. The Local Board argues that the Student is putting form over substance. We agree with the Local Board.

The legislative intent set out in the School Safety Act is to keep students out of school who have committed serious crimes that evidence a potential for serious injury to other students. In the instant case, it is undisputed that the Student brought a loaded gun to school. The record also shows that the Student would have been expelled if he had not withdrawn from the private school. The record also shows that the Student’s case was referred to juvenile authorities. Every element of O.C.G.A. § 20-2-751.2 exists. The letter from the private school, which states that the Student would have been expelled if he had not withdrawn, is the equivalent of a disciplinary order as required by O.C.G.A. § 20-2-751.2.

In addition to O.C.G.A. § 20-2-751.2, it appears that the Local Board has authority to refuse to admit a student who commits a crime under the provisions of O.C.G.A. § 20-2-768(a), which provides, in part:

² Response by private school to request from Local Board for disciplinary order.

Each local board of education is authorized to refuse to readmit or enroll any student who has been suspended or expelled for being convicted of, being adjudicated to have committed, being indicted for, or having information filed for the commission of any felony or any delinquent act under Code Section 15-11-28 which would be a felony if committed by an adult. ...

In the instant case, there was “information filed for the commission of a felony.”

Based upon the foregoing and a review of the record, the State Board of Education is of the opinion that the Student was not denied due process and the Local Board had the authority to deny the Student admission for one year. Accordingly, the Local Board’s decision is
SUSTAINED.

This _____ day of January 2011.

MARY SUE MURRAY
Vice Chair for Appeals