

STATE BOARD OF EDUCATION

STATE OF GEORGIA

LAVERN MOLE,	:	
Appellant,	:	
v.	:	CASE NO. 1980-37
RICHMOND COUNTY BOARD OF EDUCATION,	:	
Appellee.	:	

O R D E R

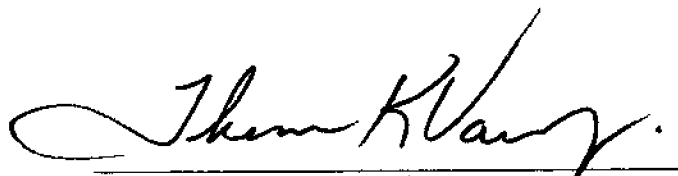
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

DETERMINES AND ORDERS, that the Findings of Fact and Conclusions of Law of the Hearing Officer are made the Findings of Fact and Conclusions of Law of the State Board of Education and by reference are incorporated herein, and

DETERMINES AND ORDERS, that the decision of the Richmond County Board of Education herein appealed from is hereby affirmed.

Mr. McClung was not present.

This 12th day of February, 1981.



THOMAS K. VANN, JR.  
Vice Chairman for Appeals

FEB 9 1981

STATE BOARD OF EDUCATION  
STATE OF GEORGIA

LAVERN MOLE,	:	
	:	
Appellant,	:	CASE NO. 1980-37
	:	
vs.	:	
	:	
RICHMOND COUNTY	:	REPORT OF
BOARD OF EDUCATION,	:	HEARING OFFICER
	:	
Appellee.	:	

PART I

SUMMARY OF APPEAL

This is an appeal by Lavern Mole (hereinafter referred to as "Appellant") from a decision by the Richmond County Board of Education (hereinafter referred to as "Local Board") to expel him from a CETA welding class as a result of scuffling with another student during class hours. The appeal is based on the grounds that Appellant was denied equal protection, that expulsion is an extremely harsh penalty, and the Local Board did not use other alternatives. The Hearing Officer recommends that the decision of the Local Board be sustained.

PART II

FINDINGS OF FACT

On June 13, 1980, Appellant was involved in a scuffle with another student in his welding class. A policy review committee investigated the incident and recommended that Appellant be expelled. Appellant requested a hearing before the

Local Board, which in turn requested the Professional Practices Committee to conduct a hearing. Appellant was supplied with a list of the charges and the witnesses who would be testifying. The Professional Practices Commission held a hearing on September 22, 1980. On October 17, 1980, the Commission recommended to the Local Board that Appellant be expelled from the welding class with the ability to immediately apply for attendance in another class. On October 28, 1980, the Local Board adopted the recommendation of the Professional Practices Commission. An appeal was filed with the State Board of Education on November 26, 1980.

Among some of the facts found by the Profesional Practices Commission were:

1. Appellant was enrolled in a CETA welding program sponsered by the Local Board. Appellant was aware of the safety rules involved in the welding program.

2. On June 13, 1980, Appellant placed his time card in the time clock before quitting time without the instructor's permission. At quitting time, another student arrived at the time clock, removed Appellant's card and was in the process of clocking out when Appellant ran to the front of the line and bumped the other student. As a result a scuffle ensued between Appellant and the other student.

3. Appellant was inconsistent in his work habits, and used abusive language concerning his instructor.

### PART III

#### CONCLUSIONS OF LAW

Appellant appealed to the State Board of Education on the grounds that he was denied equal protection of law because he is a handicapped student. He argues that he falls into the classification of "handicapped student" because of testimony that the students enrolled in the CETA program were, for the most part, economically and academically disadvantaged. Appellant argues that since he is "handicapped", he does not have any control over his actions. The Local Board's regulations, which provide for expulsion for fighting, therefore, adversely impact on Appellant and deny him equal protection.

During the hearing before the Professional Practices Commission, the issue of whether Appellant was handicapped was not raised. If an issue is not raised during the initial proceeding, it cannot later be raised for the first time on appeal to the State Board of Education. See, Long County Board of Education v. Owens, 150 Ga. App. 245 (1979). Additionally, there was no evidence presented during the hearing that Appellant was handicapped. The Hearing Officer, therefore, concludes that Appellant is not handicapped and there was no denial of equal protection.

Appellant also raises the issue that the expulsion was unduly harsh and that other alternatives were available. Local boards of education, however, are charged with the responsibility of managing the local schools and have the discretionary

discretionary authority and power to expel students with cause. See, Boney v. County Board of Education of Telfair County, 203 Ga. 152 (1947). The Professional Practices Commission found that the charges against Appellant were sustained by the evidence. If there is any evidence contained in the record to support the findings, the State Board of Education will not disturb those findings upon review. Antone v. Green County Board of Education, Case Number 1976-11. There was evidence contained in the record which supported the findings of the Professional Practices Commission. The Hearing Officer, therefore, concludes that the Local Board did not abuse its discretion in expelling Appellant from the welding class and granting him the opportunity to reapply for another class.

#### PART IV

#### RECOMMENDATION

Based on the foregoing findings and conclusions, the record submitted, and the briefs and arguments of counsel, the Hearing Officer is of the opinion that Appellant cannot raise for the first time on appeal the issue of denial of equal protection based upon a handicapped status. The Hearing Officer is of the further opinion that the Local Board did not abuse its discretion by expelling Appellant from the welding class that he was in and granting him an opportunity to reapply for another class. The Hearing Officer, there-

fore, recommends that the decision of the Richmond County Board of Education be sustained.

(Benjamin Allen, appearing for Appellant; McGahee, Plunkett, Benning, Fletcher & Harley, Leonard O. Fletcher, Jr., for Appellee)

  
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L. O. BUCKLAND  
Hearing Officer