

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JIMMY T.,	:	
	:	
Appellant,	:	
	:	
v.	:	CASE NO. 1981-21
	:	
DEKALB COUNTY BOARD	:	
OF EDUCATION,	:	
	:	
Appellee.	:	

O R D E R

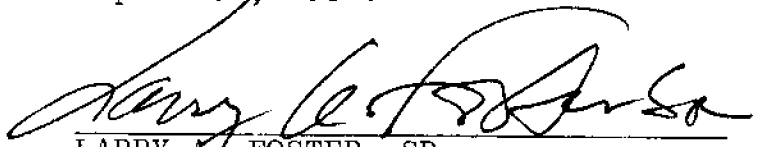
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

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 DeKalb County Board of Education herein appealed from is hereby sustained.

Messrs. McClung and Smith were not present.

This 10th day of September, 1981.

  
LARRY A. FOSTER, SR.  
Vice Chairman for Appeals

SEP 3 1981

STATE BOARD OF EDUCATION  
STATE OF GEORGIA

IN RE: JIMMY T. :  
 : CASE NO. 1981-21  
 :  
 : REPORT OF HEARING OFFICER  
 :

This is an appeal by the parents of Jimmy T. (hereinafter "Student") from a decision of the DeKalb County Board of Education (hereinafter "Local Board") to expel the Student for the remainder of the spring quarter, 1981, but with the opportunity to take his final examinations, and to place him on probation during the 1981-1982 school year, because of excessive absenteeism. The parents filed the appeal with the State Board of Education because they feel that the decision was too severe, did not provide for alternative forms of education, failed to provide for a means of taking the final examinations, did not provide for alternative forms of discipline, and deprived the Student of a basic education. The Hearing Officer recommends that the decision of the Local Board be upheld.

The Student, who is fifteen years old and was in the tenth grade, was charged with repeated violations and skipping classes or required activities. The evidence showed

that he was improperly absent from class on the day following his return from a nine-day suspension from school. During most of the spring quarter, the Student was under either in-school or out-of-school suspension.

During the hearing before the Local Board, all of the charges were admitted. The evidence disclosed that the Student had been counselled, meetings had occurred with the parents and the school administration, and various forms of disciplinary measures had been taken for previous instances of class absence. The parents' primary concern was with the student being expelled. They felt he should remain in school and be required to complete his studies. They were also concerned with the effect of an expulsion entry on the Student's record.

When it considers an appeal from the decision of a local board of education, the State Board of Education is required to follow certain principles of law. One of these principles is that the management of the local school system is the responsibility of the local board of education. The Georgia Constitution provides that the school district within a county shall be confined to the control and management of a County Board of Education. Constitution of the State of Georgia of 1976, Art. VIII, Sec. V, Para. II; Ga. Code Ann. §2-5302. The courts of the state have said that this provision limits the State Board of Education when it considers

an appeal from the decision of a local board of education. The State Board of Education can only take action when the local board of education has abused its discretion, exceeded its powers, or has otherwise violated the law. See, Boney v. County Bd. of Educ. of Telfair County, 203 Ga. 152 (1947); Barrie v. State, 119 Ga. App. 148 (1969). Otherwise, if there is any evidence to support the decision of the local board of education, the State Board of Education is required to uphold the decision of the local board of education. See, Ransum v. Chatooga County Bd. of Ed., 144 Ga. App. 783 (1978).

In the record that was submitted, it does not appear that the Local Board abused its discretion in expelling the Student for the remainder of the quarter<sup>1</sup>, or in placing him on probation for the next year. Alternative forms of discipline had been attempted, counselling was available, and the Student was aware of the possible consequences of his actions. It appears that the proper notices were provided to the parents and the Student and that a hearing was provided. It, therefore, appears that none of the Student's due process rights were not violated. The Hearing Officer, therefore,

<sup>1</sup>In addition to being proper, the decision to expel the Student for the remainder of the 1980-1981 school year is moot and the appeal would be dismissed but for the question of whether probation for the 1981-1982 school year was proper.

concludes that the Local Board properly acted within its authority, and recommends the decision of the Local Board be sustained.

*L. O. Buckland*  
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L.O. BUCKLAND  
Hearing Officer