

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JOSEPH M.	:	
	:	
Appellant,	:	
	:	CASE NO. 1981-40
vs.	:	
	:	REPORT OF
JASPER COUNTY	:	
BOARD OF EDUCATION,	:	HEARING OFFICER
	:	
Appellee.	:	
	:	

PART I

SUMMARY OF APPEAL

This is an appeal by the parents of Joseph M. (hereinafter "Student") from a decision by the Jasper County Board of Education (hereinafter "Local Board") to suspend Student for the remainder of the fall quarter because he had broken into the high school gymnasium and taken four football shirts. The appeal was made on the grounds the punishment was disproportionate to the offense and overly severe, and resulted in a denial of the Student's due process rights because it exceeded the published limits of punishment. The Local Board has moved to dismiss the appeal as moot since the Student was suspended and is now back in school. The Hearing Officer recommends that the decision of the Local Board be sustained.

PART II
FINDINGS OF FACT

During the 1980 football season, the Student played football, but he did not go out for practice during the spring of 1981 because he was working. The football coach decided that the Student would not be awarded a football jacket because he did not report for practice. Previous to this decision, the jackets had been awarded to the students who played during the fall season.

The Student felt he had been wronged by the football coach and, in an expression of indignation, he entered the storage area of the gymnasium on the night of August 8, 1981 by using his drivers license on a lock. He removed four football jerseys and departed without damaging any property.

The Student offered to sell one of the jerseys to another student, but the other student declined. The Student later felt he was wrong in removing the jerseys, so on the night of September 12, 1981, he again entered the gymnasium and placed the four jerseys in an area where he thought they would be discovered when the football equipment was washed.

During the following week, the police chief visited the school. Another student, who was aware that the Student had taken the jerseys, asked the Student where the jerseys were, and, upon being told by the Student, retrieved them for the police chief. The Student was questioned and readily

admitted he had taken the jerseys and had returned them.

Prior to the incident, the Student had not had any discipline problems. His grades were A's and B's, and he was active in extra-curricular activities.

The Local Board held a hearing on September 30, 1981. During the hearing, it was established that the high school principal had prepared a student handbook which stated:

"STEALING

Theft or vandalism of
public or private property

PENALTY AT DISCRETION OF
ADMINISTRATOR depending on
circumstances up to maximum
suspension (10 days).
Restitution will be made."

Other offenses listed in the Handbook contained a penalty of "recommendation of expulsion" as a possible disciplinary measure. The Local Board had not adopted the handbook or the rules contained therein as its own. The Local Board decided to suspend the Student for the remainder of the quarter, which ended during the latter part of November. An appeal to the State Board of Education was filed on October 30, 1981.

PART III

CONCLUSIONS OF LAW

The appeal states as the first ground for reversal that the punishment was disproportionate and overly severe for the Student's misconduct. A local board of education, however,

is charged with the responsibility of managing the operation of its schools, and, in matters of discipline, the State Board of Education cannot substitute its judgment for the judgment of the local board. See, Boney v. County Bd. of Ed. of Telfair, 203 Ga. 152 (1947); Braceley v. Burke County Bd. of Ed., Case No. 1978-7; Ga. Code Ann. §§2-5301, 32-901. The record does not show that the Local Board abused its discretion in suspending the Student for the remainder of the quarter, notwithstanding the fact that the Student returned the property on his own and cooperated when confronted.

As a second ground for reversal, it is argued that the punishment imposed exceeded the published rules of the school system. It is argued that the principal acted as the agent of the Local Board and the rules and punishments set forth in the student handbook were the rules, regulations, and punishments adopted by the Local Board. The Local Board argues that the rules merely related to the control of the school by the principal and were not rules which were adopted by or binding upon the Local Board. The ten-day suspension was the maximum that could be imposed by the principal before a matter was turned over to the Local Board for a hearing and imposition of greater disciplinary measures.

The necessary support for the Student's argument, however, is not contained in the record. An agent does not

have any greater authority than that which has been granted by the master. In the instant case, there was no evidence that the Local Board empowered the principal to establish the disciplinary measures that would be taken by the Local Board, and there was no evidence that the Local Board approved or sanctioned the rules published by the principal. In the absence of such evidence, the Hearing Officer concludes that the Local Board is not estopped from imposing disciplinary measures greater than those published by the principal. It appears that the principal was attempting to stay within the guidelines set forth in Goss v. Lopez, 419 U.S. 565 (1975), by showing suspension of up to ten days for the offenses without a hearing. The Hearing Officer concludes that the Student was not denied any due process rights when the Local Board decided to impose a discipline measure which exceeded the measures published in the Student Handbook by the principal without the sanction and approval of the Local Board.

PART III

RECOMMENDATION

Based upon the foregoing findings and conclusions, the record submitted, and the briefs and arguments of counsel, the Hearing Officer is of the opinion the imposition of suspension for the remainder of the quarter was not an abuse of

discretion by the Local Board, and did not result in the Student being deprived of any due process rights.

(Appearances: For Appellant - John Lee Parrott; For Local Board - W. Dan Roberts)

L. O. Buckland

L.O. BUCKLAND
Hearing Officer