

STATE BOARD OF EDUCATION

STATE OF GEORGIA

CAROLYN I., :
Appellant, :
v. : CASE NO. 1981-42
DEKALB COUNTY BOARD :
OF EDUCATION, :
Appellee. :

O R D E R

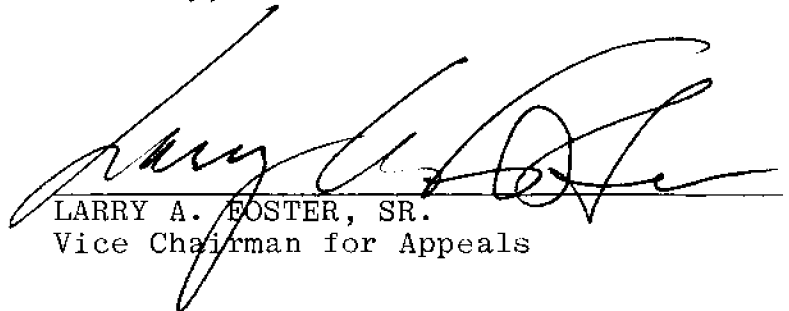
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

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. Smith, Temples and Lathem were not present.

This 11th day of February, 1982.


LARRY A. FOSTER, SR.
Vice Chairman for Appeals

PART II
FINDINGS OF FACT

The Student was given a three-day in-house detention by the assistant principal when he and one other school employee witnessed the Student throwing a piece of paper at another student in the school cafeteria during May, 1981. The Student failed to appear at the detention and an additional day of detention was imposed. The Student's mother requested postponement of the punishment in order to appeal the initial decision. A hearing was conducted in June, 1981, before an administrative hearing officer who decided against the Student. Another hearing was held on September 22, 1981 before a hearing committee. The hearing committee also found against the Student and imposed three days of detention and probation. The Student's parent then appealed to the Local Board. The Local Board hearing was held on October 12, 1981 and the Local Board imposed four days of after-school detention, and three days of in-house suspension to run concurrently with the four days. An appeal to the State Board of Education was filed on October 15, 1981. No disciplinary action has been taken during the appeal process.

PART III

CONCLUSIONS OF LAW

The Appellant has appealed on the grounds (1) the evidence was insufficient to support the decision, (2) the decision was harsh, and (3) ". . . what point and [sic] time the appeal process was initiated. . . ."

In the hearing before the Local Board, there was conflicting testimony regarding whether the Student threw the paper in the cafeteria. Witnesses for the school system testified that they saw the Student throw the paper, while witnesses for the Student stated that she did not. The State Board of Education follows the rule that if there is any evidence contained in the record which will support the decision of the local board of education, then the local board's decision will not be disturbed upon appeal. See, Antone v. Greene County Bd. of Ed., Case No. 1976-11. The conflicts in testimony that appear in a hearing necessarily must be resolved by the Local Board when it hears a case. The local boards of education also have discretion in determining the discipline measures to be taken. The Hearing Officer, therefore, concludes that the evidence contained in the record was sufficient to sustain the decision of the Local Board, and the decision does not result in harsh punishment.

It is unclear from the record and from the briefs submitted what is the legal basis for the third ground of the

appeal. It appears that there is a claim that some due process rights have been violated. The record, however, shows that the Student has had an opportunity to present her case in three hearings. At each hearing, the Student has received notice of the charges, notice of the hearing, and an opportunity to be represented by counsel. Additionally, it does not appear that the Student has been deprived of any property rights or any freedoms which would necessitate the long and involved appeals process which this Student has been permitted to institute. Under existing case law, short-term detention normally does not require a hearing if the school system does not have such procedures in effect. The Hearing Officer, therefore, concludes that the Student has not been denied any due process rights in that she has had an opportunity to have three hearings, has had ample notice, and has been represented by counsel.

PARTY IV

RECOMMENDATION

Based upon the foregoing findings and conclusions, and the record and briefs submitted, the Hearing Officer is of the opinion that there was sufficient evidence to sustain the decision of the Local Board, the decision does not result in

harsh punishment, and the Student was not denied any due process rights. The Hearing Officer, therefore, recommends that the decision of the Local Board be sustained.

L. O. Buckland

L.O. Buckland
Hearing Officer