

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JARROD S.,)
)
 Appellant,) CASE NO. 1984-21
)
 V.)
)
 LAGRANGE City BOARD OF Education,)
)
 Appellee.)

ORDER

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 hereto, and after a vote in open meeting,

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

DETERMINES AND ORDERS, that the decision of the LaGrange City Board of Education herein appealed from is hereby sustained.

Mr. Taylor did not participate and abstained.

This 11th day of April, 1985.

LARRY A.F OSTER, SR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JARROD S.)	
)	CASE NO. 1984-21
v.)	
)	
LAGRANGE BOARD OF EDUCATION)	DECISION OF STATE HEARING OFFICER

PART I

SUMMARY OF APPEAL

This is an appeal from a decision of the LaGrange City Board of Education (hereinafter "Local Board") expelling Jarrod S. (hereinafter "Student") for having a pistol in the glove compartment of the car he drove to school and parked on school grounds. The Student appeals based on the grounds that he had no knowledge of the fact the gun was in the glove compartment of the car, that he had no knowledge it was improper to bring the gun on campus, that the Local Board applied its policy in an arbitrary fashion, that his substantive due process rights were violated, and that the Local Board should have taken into account the mitigating circumstances of the incident. The Local Board contends there is evidence to support a finding that the Student had knowledge of the gun and its location and that the Student had a responsibility to insure that he does not bring weapons on the school campus. The Hearing Officer recommends the decision of the Local Board be sustained.

PART II

FACTUAL BACKGROUND

In the fall of 1984, the Student was placed in the Local Board's alternative school because of a fight he had with another Student (hereinafter "Student 2") the previous June. On November 27, 1984, two relatives of Student 2 came to the school and informed the principal that the Student had a gun and intended to use it on Student 2. The principal questioned the Student and the Student told the principal he had no gun at school. The police were informed of the situation and took the Student to the police department. The police talked with the Student's father and were informed that the father was aware there was a gun in the glove compartment of the Student's father's car which the Student had driven to school. The Student gave the keys to the car to his father and, in the presence of the police, his father took the gun from the glove compartment and gave the gun to the police. The police officer testified the gun was loaded. The Student's father further testified that the gun had been in the car since they bought the car and that the Student had opened the glove compartment. The Student did not testify.

By letter of December 3, 1984, the Local Superintendent notified the parents that the Student was charged with violation of a school rule prohibiting possession of a pistol on the school grounds. The letter further notified the parents the Student would be given a hearing and a copy of the procedures governing the hearing was attached. The hearing officer determined the Student violated the rule and expelled the Student for the 1984-85 school year with the right to readmission in the fall of 1985 being subject to reasonable conditions, including assignment to the alternative school.

The Student appealed the decision of the hearing officer to the Local Board and the Local Board sustained the decision of the hearing officer January 10, 1985. The Student

appealed to the State Board of Education from the decision of the Local Board by letter of January 29, 1985.

PART III

DISCUSSION

The State Board of Education is required to sustain the decision of the Local Board if there is any evidence to support that decision, absent an abuse of discretion by the Local Board. See, Ransum v. Chattooga Cnty Bd. of Ed., 144 Ga. App. 783 (1978); Antone v. Greene Cnty Bd. of Ed., Case No. 1976-11. The Student's arguments on appeal challenge the findings that the Student had knowledge of the gun in the glove compartment of the car, that the Student had knowledge of the policy, that the Local Board's policy is void for vagueness, and that the penalty was too harsh.

The Local Board on appeal found that the Student had knowledge of the gun in the glove compartment of the car. At the hearing, the Student's father testified that the gun had been in the glove compartment of the car as long as they had the car and that the Student had opened the glove compartment. From this testimony, it is reasonable to presume that the Student knew the gun was in the car. Even without the hearsay evidence the Student objects to, there was evidence to support the decision of the Local Board that the Student knew the gun was in the car.

The second issue is whether the Student knew of the policy prohibiting possession of a pistol on campus or whether such knowledge is required. Prior to the hearing, the Local Superintendent quoted the policy in its notice to the Student's parents that the hearing would be held. At the hearing, the Student did not testify and neither the Student nor his parents raised an issue as to whether the Student was aware of the policy. The only discussion at the

hearing concerned whether the Student knew about the gun. O.C.G.A. § 20—2 1160 provides the authority for hearings by local boards of education and appeals to the State Board of Education from decisions of those local boards. The State Board of Education is only authorized to consider on appeal issues raised before the Local Board. Boney v. County Bd. of Ed., 203 Ga. 152 (1947); Owen v. Long Cnty. Bd. of Ed., 245 Ga. 647 (1980). In the present case, neither the Student nor his parents raised the issue of whether the Student was aware of the policy and thus it may not be argued on appeal to the State Board of Education.

Even if the question of whether the Student knew about the policy is to be considered on appeal, it would not warrant reversal in this appeal. The safety of the school environment is obviously an important issue to both school officials and students alike. Bringing a pistol to school can have serious consequences for the safety of that environment. Where it is obvious that certain conduct, such as bringing a pistol to school, can have serious consequences for the safety of others, it need not be shown that the Student was warned that the conduct was prohibited. Rhyme v. Childs, 359 F. Supp. 1985 (1972). An individual of reasonable intelligence should be able to ascertain that pistols have no place in the school setting and that bringing a pistol to school may result in discipline by the Local Board up to and including expulsion.

In addition to the fact the Student should have known possession of the pistol could result in expulsion, he certainly should have known that an intent to use the weapon against a fellow student could result in expulsion. The rumors which led to discovery of the pistol may not have been admissible in a court proceeding but they can be considered in an administrative proceeding. Hearsay evidence has been held to be admissible in school discipline proceedings. Boykins v. Fairfield Bd. of Ed., 492 F.2d 697 (1974). Where a rumor arises that a student has brought a gun to school to harm another student, with whom he had fought, and an investigation shows that indeed a gun has been brought to school, it is not unreasonable to conclude that the

rumor was true. Based on that finding, the Student certainly was aware that such conduct could result in discipline by the school authorities.

Finally, the rule was a published rule of the Local Board and the Student should be aware of the rules governing the students in the system. The Student is of high school age and, therefore, old enough to inquire as to the rules governing conduct or accept the consequences if he violates those rules because he failed to inquire about them.

The Student's final arguments on appeal are that the policy is void for being vague, overbroad, and that the punishment was too harsh. The policy in question was aimed at protecting the safety of Students and others who may be in the school environment. It states:

A student shall not possess, handle, or transmit a razor, ice pick, explosive, loaded cane, sword cane, machete, pistol, rifle, shot gun, pellet gun, or any other object that reasonably can be considered a weapon or which is reasonably calculated to do injury or harm to others:

1. On the school grounds at any time;
2. Off the school grounds at a school activity, function or event; or
3. En route to or from school.

This issue was also not raised in the hearing below and should not be considered by the State Board of Education on appeal. Even if it were to be considered, the policy is clear in what it attempts to prohibit and the Student certainly should

have no trouble understanding that a pistol is prohibited since it is explicitly listed. The policy also clearly states that possession, handling or transmission on the school grounds or to and from school is prohibited. Having the gun in the car would clearly violate this rule.

The Student's argument that the policy is vague and over-broad relates to his contention that he had no knowledge the pistol was in the car. This contention is not supported by the findings below that he had such knowledge. Because there is evidence to support the finding of his knowledge of the gun, there is no basis in fact for his arguments that the policy is overbroad or vague because it applies to possession without knowledge. There is no showing that the policy is intended to apply to such a set of facts or that it has been applied in that fashion.

The argument that the punishment is too harsh for the offense committed also does not warrant reversal. The offense was a serious offense as it could result in serious injury or death to an individual. Nothing has been presented on appeal to demonstrate why the punishment of expulsion would be an arbitrary and capricious exercise of the Board's authority.

PART IV

CONCLUSION

Based upon the foregoing discussion, the record presented and the briefs and arguments of counsel, the Hearing Officer is of the opinion that there is evidence in the record to support the decision of the Local Board of Education that the Local Board's

decision was not an abuse of its discretion, and the Local Board's policy is not unconstitutional, and, therefore, recommends that the decision of the Local Board be

SUSTAINED.

L. O. BUCKLAND
State Hearing Officer