

STATE BOARD OF EDUCATION

STATE OF GEORGIA

CHARLES R.,)	
)	
Appellant,)	
)	
v.)	CASE NO. 1984-24
)	
DEKALB COUNTY 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 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.

Mr. Foster and Mr. Taylor were not present.

This 9th day of May, 1985.

HOLLIS Q. LATHEM
Vice Chairman

STATE BOARD OF EDUCATION

STATE OF GEORGIA

CHARLES R.,)	
)	
Appellant)	
)	CASE NO. 1984-24
v.)	
)	
DEKALB COUNTY BOARD)	
OF EDUCATION,)	
)	RECOMMENDATION OF
Appellee.)	STATE HEARING OFFICER

PART I

SUMMARY OF APPEAL

This is an appeal from a decision of the DeKalb County Board of Education (hereinafter "Local Board") expelling Charles R. (hereinafter "Student") from the regular campus and allowing him to attend an alternative school for violation of Local Board rules prohibiting the sale of drugs, being under the influence of drugs, and creating a school disturbance. The Student appeals based upon the grounds that he had no attorney, that hearsay evidence was admitted, that no chemical analysis was made of the substance involved in the sale, that the local Board lacked jurisdiction, and that there was no evidence to support certain of the charges. The Hearing Officer recommends the decision of the Local Board be sustained.

FACTUAL BACKGROUND

The Student was charged with violation of the following rules:

- 5a Sale or attempted sale and/or distribution of drugs, or substances represented to be drugs by the seller and/or thought to be drugs by the buyer, on school property, at a school function, on property used by the school with permission of the owner, at any school event held away from the school, or while the student is on his/her way to or from school.
- 5c Being under the influence of (or using) drugs on school property, at a school function, on property used by the school with the permission of the owner, at

any school event held away from the school, or while the student is on his/her way to or from school.

- 12 Acts which cause substantial disruption of the school environment and/or threaten the safety or well-being of other students which may include sit-downs, walk-outs, riots, picketing, trespass, inciting disturbances, threats, pranks, indecent exposure, or actual violence during period of disruption.
- 22 This offense covers, but is not limited to, such acts as falsifying school records forging signatures, and making false statements.

The Student's father was notified by letter of the charges and that a hearing would be held before the Student Evidentiary Hearing Committee. The Student's father was told the Student was entitled to be represented by legal counsel. The Student attended the January 10, 1985 hearing with his parents and was not represented by counsel. At the hearing, the principal of the Student's school testified that a female student (hereinafter "T.K.") came to his office indicating she was sick and that the Student had given her some pills which he identified as "speed". The principal further testified that he then questioned the Student who admitted having given T.K. capsules which he gave to her as "speed", and having given some pills to another student (hereinafter "S.B.") at a restaurant across the street from the school. T.K. testified that the Student gave her pills which he told her were "speed". Another student (hereinafter "B.E.") testified that he saw the Student sell S.B. five pills at the restaurant and that the Student gave him a pill. The Student testified that the pills were caffeine and that he sold them to S.B. The Student's mother testified that the school bus had come at 7:00 o'clock in the morning and that she gave him money to go to the restaurant to buy breakfast because there was nothing to do between the time they arrived and the time school started.

The Student's father was notified by letter on January 10, 1985, that the Student Evidentiary Hearing Committee expelled the Student from all regular units of the DeKalb County School System through fall quarter of the 1985-86 school year and gave him the option of attending alternative school during fall quarter 1985. The Student was further placed on probation until graduation and restricted to open campus from winter quarter 1985-86 until

graduation. The Student was found to be in violation of rules 5a (Sale of Drugs), 5c (Under the Influence of Drugs), and 12 (School Disturbances).

The Student appealed the decision of the Student Evidentiary Committee to the Local Board on January 30, 1985. The Local Board voted to uphold the decision of the Student Evidentiary Hearing Committee on February 4, 1985 and the Student appealed that decision to the State Board of Education by letter of February 11, 1985. On February 18, 1985, the Local Board reconsidered its February 4, 1985 decision and modified the discipline imposed to allow the Student to enter the alternative school immediately and to remain there through fall quarter 1985, continuing his probation, and only allowing him to attend open campus after completion of the fall quarter 1985 at the alternative school.

PART III

DISCUSSION

The Student argues on appeal that he had no attorney, that hearsay evidence was admitted, that no chemical analysis was made of the substance involved, that the Local Board lacked jurisdiction, and that there was no evidence to support the charges of being under the influence of drugs and causing a school disturbance. The Student was not represented by counsel at the hearing but was represented by his father. The father was notified of the right to have an attorney by the letter which informed him of the hearing. This Hearing Officer is unaware of any authority which requires that a minor Student be notified directly rather than through his parents of a right to counsel. Because no such authority has been cited, this ground does not warrant reversal. Hearsay evidence was admitted but some of the testimony admitted as hearsay was admissible under the exception allowing admissions against interest. Additionally, hearsay evidence has been held to be admissible in school discipline proceedings. *Boykins v. Fairfield Bd. of Ed.*, 492 F.2d 697 (1974). Further, the Student testified that he sold some pills to S.B. and gave some pills to T.K. There was ample evidence without the use of

hearsay to support the fact that the Student distributed pills to students at a restaurant across the street from the school after having arrived at school on a school bus. There was testimony that the Student represented the pills as being “speed” and the Student admitted that the pills were caffeine. Rule 5a prohibits the sale or distribution of drugs or substances represented to be drugs and defines drugs broadly to include legal or illegal drugs. The Local Board has a responsibility to adopt rules to protect the welfare of its students. In adopting the rule to prohibit the distribution of drugs, legal or illegal, the Local Board is attempting to prevent distribution of legal drugs which might cause students harm as well as to prevent the distribution of all drugs being distributed in their schools. There is ample evidence in the present case that the Student violated the rule by representing the substance as “speed”, even though he later contended it was caffeine.

The Student challenges the jurisdiction of the Local Board because the distribution occurred across the street from the school. However, the Student had been brought to school by a school bus and had left the campus. The activity involved students and the Local Board is disciplining the Student by removing school privileges. A student may not avoid discipline by stepping across the street to sell drugs, nor does the Local Board lose jurisdiction when the Student leaves the campus. The Local Board has the authority to impose school sanctions for activities which occur off campus. Their rule is aimed at protecting the students and it does not appear to be unreasonable. The Hearing Officer, therefore, finds that the Local Board had jurisdiction.

The Student also contends that there *was* no evidence to support the finding of being under the influence of drugs and causing a school disturbance. Even without these charges, there were sufficient grounds to warrant the punishment imposed, and there was evidence to support these charges. The principal testified that the Student had admitted taking the pills himself while at school, and that the pills had an effect on two students at the school. He also

testified that the incident and the required investigation caused a disturbance. The Hearing Officer, therefore, concludes that the lack of evidence of influence is an insufficient basis for reversing the Local Board.

The State Board of Education is bound 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. *Ransum v. Chattooga Cnty. Bd. of Ed.*, 144 Ga. App. 783 (1978); *Antone v. Greene Cnty. Bd. of Ed.*, Case No. 1976-11. Here, there is evidence to support a violation of reasonable rules of the Local Board and thus the decision of the Local Board should be sustained.

PART IV

CONCLUSION

Based upon the foregoing discussion, the record presented and the briefs submitted, the Hearing Officer is of the opinion that there is evidence in the record to support the decision of the Local Board, and that the decision of the Local Board was not an abuse of its discretion. The Hearing Officer, therefore, recommends that the decision of the Local Board be sustained.

L. O. BUCKLAND
State Hearing Officer