

STATE BOARD OF EDUCATION

STATE OF GEORGIA

SHAKEDRA S., :
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 Appellant, :
 :
 v. :
 : **CASE NO. 1992-3**
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 FULTON COUNTY DECISION :
 BOARD OF EDUCATION, :
 :
 :
 Appellee. :

This is an appeal by Shakedra S. (“Student”) from a decision by the Fulton County Board of Education (“Local Board”) to uphold the decision of disciplinary tribunal to expel the Student for the remainder of the school year because she cut another student with a knife. Appellant claims that she was denied due process. The Local Board’s decision is sustained.

On November 13, 1991, shortly after getting off a school bus, the Student, a fourteen year old, attacked another student with a knife and cut the other student’s face. The Local Board has at least two rules governing such conduct:

Rule 5:A student shall not cause or attempt to cause physical injury, threaten bodily harm, intentionally make physical contact of an insulting or provoking nature, or behave in such a way as could reasonably cause physical injury to any person: (a) on the school grounds at any time; (b) off the school grounds at a school activity, function or event; or (c) en route to and from school or school-sponsored activity.

Rule 6:A student shall not possess, display, transmit or threateningly use a knife, razor, ice pick ... or other object that reasonably can be considered a weapon: (a) on the school grounds at any time; (b) off the school grounds at a school activity, function or event; or (c) en route to and from school or school-sponsored activity.

After the incident occurred, a disciplinary tribunal (“Tribunal”) held a hearing on December 3, 1991. The Tribunal heard testimony from the Student, the victim, and a witness. During the hearing, the Student claimed that she was simply defending herself. There was, however, evidence that the Student started the incident. At the conclusion of the hearing, the Tribunal found that the Student had violated the rules as charged. The Tribunal decided that the Student should be expelled from school for the remainder of the 1991-1992 school year, with the option of returning for the 1992-1993 school year. The Student appealed to the Local Board, which considered the matter on January 7, 1992. The Local Board voted to uphold the Tribunal’s decision. The Student then appealed to the State Board of Education.

On appeal, the Student claims she was denied due process because the school system failed to call a witness who would have testified that the Student had tried to obtain help from the school administration because she was having problems with the other student. Additionally, she claims that the punishment was too severe because she has never had any previous disciplinary problems.

The standard for review by the State Board of Education is that if there is any evidence to support the decision of the local board of education, then the local board's decision will stand unless there has been an abuse of discretion or the decision is so arbitrary and capricious as to be illegal. See, Ransum v. Chattooga County Bd. of Educ., 144 Ga. App. 783, 242 S.E.2d 374 (1978); Antone v. Greene County Bd. of Educ., Case No. 1976-11 (Ga. SBE, Sep. 8, 1976). In this case, there was undisputed evidence that the Student struck the other student with a knife. The State Board of Education is thus required to sustain the Local Board's decision.

The record does not support the Student's claim that she was denied due process. The Student was told that she could subpoena witnesses for the hearing, but she did not request any subpoenas. The school administration was not required to have any particular witnesses present to present its case. Additionally, the witness' testimony would not have been about the attack. Instead, it would have concerned mitigation. The Tribunal, however, considered several letters from teachers and the Student's academic and disciplinary record. The witness' testimony would not have added any additional information.

Based upon the foregoing, the State Board of Education is of the opinion that there was evidence to support the Local Board's decision. The Local Board's decision, therefore, is

SUSTAINED.

This 14th day of May, 1992.

Mr. Brinson and Mr. Sears were not present.

James H. Blanchard
Vice Chairman for Appeals