

STATE BOARD OF EDUCATION

STATE OF GEORGIA

MARTINIUS C.,	:	
	:	
Appellant,	:	
v.	:	
	:	CASE NO. 1992-12
GRIFFIN-SPALDING COUNTY	:	
	:	DECISION
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal from a decision by the Griffin-Spalding County Board of Education (“Local Board”) to uphold the decision of a Disciplinary Hearing Panel (“DHP”) to permanently expel Martinius C. (“Student”) because he was in possession of a knife and pistol and discharged the pistol on school grounds. The Student maintains on appeal that the decision of the Local Board is too harsh because the rules of the Local Board do not provide for permanent expulsion. The decision of the Local Board is sustained in part and reversed in part.

On January 31, 1992, another student brought a pistol to school and showed it to Appellant. The Student took the pistol from the other student without the other student’s knowledge. The Student thought the pistol was unloaded. He took it into the restroom to inspect it. While examining the pistol, the Student accidentally fired the weapon. The bullet struck one of the Student’s fingers. School officials, who were in the restroom, took the Student to have his finger attended. The school officials searched the Student’s book bag and found a four-inch knife. Appellant was charged with violating Local Board Rules 1(D) and 6, discharging a weapon on school premises and possession of a loaded pistol and knife on school grounds. A disciplinary hearing was held by the DHP on February 6, 1992.

The DHP found the Student guilty of possessing a knife and a loaded pistol and discharging the pistol. The DHP ordered permanent expulsion of the Student. The Student appealed the DHP decision to the Local Board.

The Local Board heard the matter on March 2, 1992.

At the Local Board meeting, the principal testified that the Student had not been involved in any previous disciplinary incidents. The Local Board voted to uphold the DHP decision to permanently expel the Student from the school system. A timely notice of appeal was filed with the State Board of Education.

The Local Board Rule 1 provides, in part:

No student shall:

(D) Discharge, threateningly display or otherwise threateningly use any firearms, explosives or other weapons on school premises:

Disposition:

1[st] offense: 10 day out-of-school suspension with expulsion recommendation

2[nd] offense: 10 day out-of-school suspension with expulsion recommendation for 180 school days.

Rule 6 provides:

A student shall not possess, handle, or transmit a knife ... pistol ... or other object that reasonably can be considered a weapon:

(1) on the school grounds at any time;

Disposition:

Pending upon the type of weapon and the circumstances involved, principal will have considerable discretionary authority to assign a minimum 3 day in-school suspension to a maximum of 10 day out-of-school suspension and 180 school day expulsion recommendation.

The control and management of the public schools constitutionally rests with the county board of education and such control and management will not be interfered with except where that control and management is contrary to law. See, Colson v. Hutchinson, 205 Ga. 559, 67 S.E.2d 764 (1951); Boney v. County Board of Education of Telfair County, 203 Ga. 152 (1947). 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 Ed. 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).

Appellant maintains on appeal that the Local Board's decision was contrary to its own rules since the maximum penalty provided in the rules is expulsion for 180 school days. The Local Board argues that permanent expulsion is permissible under Rule 1.

An examination of Rule 1, however, shows that the disposition for a first offense is an "expulsion recommendation," while the disposition for a second offense is "expulsion recommendation for 180 school days." Rule 6 also provides for a "180 school day expulsion recommendation." Under the Local Board's argument, the incongruous result would be that if a student violated Rule 1(D) twice, then the maximum punishment would be expulsion for 180 school days, but a single violation will result in permanent expulsion. We believe the only

logical, consistent reading of Rule 1(D) is that a first violation can be punished by expulsion for some period less than 180 school days. By imposing a greater 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 Ed. of Educ., 144 Ga. App. 783, 242 S.E.2d 374 (1978); Antone v. Greene County Bd. of Educ., Case No. 1976-11 (Ga. SEE, Sep. 8, 1976).

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The State Board of Education is aware of the need to eliminate weapons from the public schools. The local boards of education are faced with difficult choices in the effort to protect the students and employees from harm. Nevertheless, when, as here, a local board prescribes maximum punishments for the violation of its rules, a local board is required to follow those rules until they are changed.

Based upon the foregoing, the State Board of Education is of the opinion that the Local Board's decision exceeded the maximum penalty provided by its own rules and thereby denied the Student substantive due process. Under its own rules, the Local Board can expel the Student up to a maximum of 180 school days. Accordingly, the State Board of Education sustains the expulsion of the Student for 180 school days and that the portion of the Local Board's decision to expel the Student for more than 180 school days is hereby reversed.

This 9th day of July, 1992.

Mr. Brinson and Mr. Williams were not present.

James H. Blanchard
Vice Chairman for Appeals