

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>DAVID B.,</b>	:	
	:	
<b>Appellant,</b>	:	
<b>v.</b>	:	
	:	<b>CASE NO. 1992-13</b>
<b>COBB COUNTY</b>	:	<b>DECISION</b>
	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	

**PART I**

**SUMMARY**

This is an appeal from a decision by the Cobb County Board of Education (“Local Board”) to uphold the decision of a Student Disciplinary Tribunal (“SDT”) to suspend David B. (“Student”) for the remainder of the 1991-1992 school year because he was in possession of a BB gun while at school. The Student complains that the decision of the Local Board was too harsh. The suspension having been served, the appeal of the Student is moot; therefore, the appeal is dismissed.

**PART II**

**FACTUAL BACKGROUND**

On February 7, 1992, the Student brought an air gun (BB gun) to school in order to take it to a friend’s house after school. While the Student was showing the gun to another student in the classroom, the Student’s teacher saw it and took him to the principal’s office. The principal suspended the Student for ten days. On February 12, 1992, the principal informed the Student’s parents that the Student was being charged with weapon possession and that the school district recommended long-term suspension beginning February 21, 1992, and continuing until June 5, 1992. On February 14, 1992, the Student’s father informed the principal that he intended to appeal the recommended discipline. A disciplinary hearing was held on February 19, 1992.

At the disciplinary hearing, the parties stipulated that the Student violated Local Board Policy JCDA-H, Weapon Possession, and that the hearing was only to decide the appropriate discipline. Evidence was presented that another student violated the same rule four months

earlier, that he was not punished, and that the Student was aware of both the violation and the lack of punishment. Evidence was then presented that the other student was not punished, and that the Student was aware of both the violation and the lack of punishment. Additional evidence was presented that the other student was not punished because the weapon was a part of the school-sponsored costume party, and that the Administration felt they had inadvertently confused the student to think the weapon was appropriate if part of the costume. Evidence was also presented that the Student knew of other serious student violations resulting in lesser punishments. These, however, were committed by special education students.

The Student testified that he brought the gun to school to take it to his friend's house after school. The Student also testified that the gun was not loaded, and that he had no pellets for it. He also said that he was showing it to the fellow student to show that his father had broken off the back of the gun. The Student testified that he sawed off the barrel after his friend suggested that he shorten the weapon into a handgun. The Director of Local Administration testified that long-term suspension is consistent with the County's policy regarding weapon possession, and that it is harmful to return a student to school because the student population will think it is okay to bring weapons to school. At the conclusion of the hearing, the Tribunal concurred with the long-term suspension.

The Student appealed from the Disciplinary Hearing Tribunal's decision to the Local Board. On February 27, 1992, the Local Board voted to uphold the decision of the Disciplinary Hearing Tribunal. On March 30, 1992, the Student's appeal to the State Board of Education was received.

### **PART III**

### **DISCUSSION**

The Student has already served the suspension and did not raise any reasons why this appeal should not be dismissed as moot. Even assuming arguendo that the appeal is not moot, the Student maintains that the decision of the Local Board was too harsh because he has only had three minor disciplinary matters come before the principal before this incident. The Student also claims that the Local Board denied him equal protection because other students committing serious violations escaped with less severe disciplinary action.

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 the instant case, the Local Board's rule states:

A student shall not possess, handle, or transmit a ... firearm, ... pellet gun ... or any weapon .... No student shall have in his possession any "look alike" object that takes the appearance of a weapon.

The Director of Local Administration reviewed the incident before Local Administration made its recommendation, therefore, concludes that the long-term suspension as applied in the instant case, does not violate the Student's equal protection rights.

#### **PART IV**

#### **DECISION**

Based upon the foregoing, the State Board of Education concludes that the appeal is moot and, therefore, the appeal is

DISMISSED.

This 9<sup>th</sup> day of July, 1992.

Mr. Brinson and Mr. Williams were not present.

James H. Blanchard  
Vice Chairman for Appeals