

STATE BOARD OF EDUCATION

STATE OF GEORGIA

MICHAEL C.,	:	
	:	
Appellant,	:	
v.	:	CASE NO. 1992-19
HOUSTON COUNTY	:	
	:	DECISION
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by the parent of Michael C. ("Student") from a decision by the Houston County Board of Education ("Local Board") to permanently expel the Student for fighting on a bus. The decision of the Local Board is reversed.

The Student is 15 years old and was in the eighth grade. He was attending an alternative school because of a previous fight with another student. On April 13, 1992, the Student was involved in a fight with another student on a school bus.

The bus driver did not see the fight start, but noticed a commotion at the back of the bus. When the driver investigated, he found the other student bleeding. The Student was removed from the bus by a policeman who was nearby.

A Student Review Committee conducted a hearing and recommended the Student's expulsion. The Student's parent appealed to the Local Board. At the hearing before the Local Board, the victim testified that the Student struck him after the Student found the victim in a seat the Student claimed was his. Other students also began hitting the victim. None of the other students were identified or disciplined. At the conclusion of the hearing, the Local Board voted to accept the recommendation of the Student Review Committee to permanently expel the Student.

On appeal to the State Board of Education, the Student's parent claims that the punishment is too harsh. 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 Ed. of Educ., Case No. 1976-11 (Ga. SEE, Sep. 8, 1976). Our task is to decide if expulsion of an eighth grade student as the punishment for hitting another student is an abuse of discretion.

Members of the Local Board questioned whether the Student could attend “open campus,” but the decision only provides for the expulsion of the Student. The Student Review Committee recommended expulsion because the Student was already in the alternative school and was exhibiting behavior problems in the alternative school. There is no indication that the Local Board attempted to identify whether the Student was eligible for special education services. There was no evidence that the Local Board considered any other options.

The control and management of the local school systems rests with the local boards of education. See, Boney v. County Board of Education of Telfair County, 203 Ga. 152 (1947). The decision to expel a student should only be reversed if there is a “shocking disparity between offense and penalty.” Lee v. Macon County Board of Education, 490 F.2d 458, 460 (5th Cir. 1974). In this case, the State Board of Education concludes that there is a shocking disparity between the offense and the penalty and the Local Board abused its discretion in permanently expelling the Student for fist fighting on a school bus.

We recognize the necessity of local boards of education to protect students from harm. We do not, however, believe that permanent expulsion of a student is an appropriate response when no weapons are involved, the incident was unplanned, and the blows involved were not vicious. It is the policy in this State that children should remain in school until they are at least sixteen years old. O.C.G.A. § 20-2-690.1. Every effort should be made to carry out this policy, and we believe it can be carried out while still protecting other students from harm.

Permanent expulsion is a quick and easy answer to the immediate problem. Unfortunately, in most instances, it only creates greater societal problems. The need for an education is critical in our society. Without an education, the chances of the Student being dependent upon society are vastly increased, whether under a welfare system or a penal system. Permanent expulsion may solve a short-term problem, but it results in a longer-term problem.

In this case, the school system never informed the Student’s parent that he was presenting any discipline problems. The Student’s parent was never involved in attempting to discipline the Student. The school system and the parent, working together, should be able to arrive at some method of coping with the Student’s behavior short of permanently expelling him from school. For example, suspension for the remainder of the school year with counseling services provided for the Student and the Student’s parent, or removal from the school bus for the remainder of the school year with the requirement that the Student’s parent provide transportation. To the extent possible, the Student’s parent should be involved in correcting the Student’s behavior.

Based upon the foregoing, we are of the opinion that the Local Board abused its discretion by permanently expelling the Student for being involved in a fistfight. The Local Board's decision, therefore, is hereby,

REVERSED.

This 10th day of September, 1992.

Mr. Abrams, Mr. Brinson, Mr. Sears and Mr. Sessoms were not present.

James H. Blanchard
Vice Chairman for Appeals