

STATE BOARD OF EDUCATION
STATE OF GEORGIA

SHAUN B.,	:	
	:	
Appellant,	:	
v.	:	
	:	CASE NO. 1992-39
DOUGLAS COUNTY	:	
	:	
	:	DECISION
BOARD OF EDUCATION	:	
	:	
Appellee.	:	

This is an appeal from a decision by the Douglas County Board of Education (“Local Board”) to uphold the decision of a student hearing tribunal to permanently expel Shaun B. (“Student”) because he was in possession of a pistol on school grounds. The Student maintains on appeal that (1) his rights to due process were violated, and (2) the decision of the Local Board was too harsh. The Local Board’s decision is sustained.

On September 3, 1992, the Student was found with a pistol on school grounds. On September 10, 1992, a student hearing tribunal found the Student guilty of possessing a pistol on the school campus and recommended permanent expulsion from school. The Student appealed to the Local Board. The Local Board conducted a hearing on October 12, 1992. During the hearing, the Student admitted that on September 1, 1992, another student gave the gun to him to hold and then walked away, leaving the gun with the Student. He further testified that he took the gun home that day, and on September 3, 1992, he brought the gun back to school to return it to the other student. The other student refused to take the gun back and the Student was found with the gun shortly thereafter. The Student was aware of the rules against having any guns on campus.

The Local Board voted to uphold the decision of the student hearing tribunal to permanently expel the Student from the school system. A notice of appeal was sent to the State Board of Education on October 29, 1992.

The Student maintains on appeal that the Local Board denied him due process because the student who supplied the gun did not testify at the hearing before either the student hearing tribunal or the Local Board. Additionally, he claims that he was denied due process because he did not have notice of the provisions of O.C.G.A. §16-11-127.1.¹

¹ O.C.G.A. § 16-11-127.1 makes it a criminal offense to have a weapon while at a school building, school function, or on school property. A provision that provides “All schools shall post in public view the provisions as contained in section 16-11-127.1(a) and (b) was not codified by the General Assembly. Ga. L. 1992, p. 1315.

“The school administration was not required to have any particular witnesses present to present its case.” Shakedra S. v. Fulton Cnty. Bd. of Educ., Case No. 1992-3 (Ga. SBE, May 14, 1992). The Student was informed by the school system that he could subpoena witnesses. There is no evidence in the record that the school system denied the Student the opportunity to have a subpoena issued for the other student’s presence. The State Board of Education, therefore, concludes that the absence of the other student did not deny any procedural due process because the other student did not testify.

Appellant also claims that he was denied due process because he was unaware of the provisions of O.C.G.A. §16-11-127.1 and the school system failed to post the notice required by law. O.C.G.A. § 16-11-127.1, however, is a criminal provision and the Student was not charged with violation of the criminal provision. Instead, he was charged with violation of the Local Board policy that prohibited the possession of guns. Although the Student claims he was unaware of the Local Board policy, the record shows that he signed the student handbook that contained the rule, and teachers told the students that guns were prohibited on the campus. The State Board of Education concludes that the Student’s claim of a lack of notice is without merit.

The Student also claims on appeal that the decision of the Local Board 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 Bd. of Educ., Case No. 1976-11 (Ga. SBE, Sep. 8, 1976).” Roderick J. v. Hart Cnty. Bd. of Educ., Case No. 1991-14 (Ga. SBE, Aug. 8, 1991). In this case, the Local Board’s rules provide, in part:

JE—R Offense #1 - WEAPONS AND DANGEROUS INSTRUMENTS - A student shall not possess, handle, or transmit weapons and dangerous instruments (or any object which can reasonably be considered a weapon) which include:
firearms, fireworks, explosives, knives, or any other object which may be used in such a manner as to inflict bodily injury or place another person in fear of his/her safety.

The rule adopted by the Local Board is within its authority and responsibility to insure the safety of all students. There was no showing that the rule is arbitrary or capricious. “A local board of education

is charged with the responsibility of managing the operation of its schools, and, in matters of discipline, the State Board of Education cannot substitute its judgment for the judgment of the local board. See, Boney v. County Board of Education of Telfair County, 203 Ga. 152 (1947); Braceley v. Burke County Ed. of Ed., Case No. 1978-7.” Joseph M. v. Jasper Cnty. Ed. of Educ., Case No. 1981-40 (Ga. SBE, Feb. 11, 1982).

Based upon the foregoing, the State Board of Education is of the opinion that the Local Board's decision is not too harsh. The Local Board's decision, therefore, is

SUSTAINED.

This 11th day of March, 1993.

Mr. Sears and Mr. Sessoms were not present.

Robert M. Brinson
Vice Chairman for Appeals