

STATE BOARD OF EDUCATION
STATE OF GEORGIA

MALCOLM J.,	:	
	:	
Appellant,	:	
	:	CASE NO. 1993-2
V.	:	
	:	DECISION
	:	
MUSCOGEE COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by the parent of Malcolm J. (“Student”) from a November 16, 1992, decision by the Muscogee County Board of Education (“Local Board”) to uphold the decision of a student disciplinary tribunal to expel the Student for the remainder of the 1992-1993 school year because he had a gun on a school campus. The Local Board’s decision is sustained.

On October 6, 1992, the assistant principal at Carver High School heard rumors that a gun was being circulated among some students on campus. The assistant principal began an investigation by questioning several students. When the assistant principal talked to the Student, the Student said he had seen another student with a gun, but he denied he had a gun. Several other students told the assistant principal that the Student had been showing a gun in the lunchroom. The assistant principal called the juvenile authorities and had them take custody of the Student.

The juvenile authorities questioned the Student and he admitted possession of a toy gun on campus. A detective called the assistant principal and told him about the Student’s admission.

The Student was charged with a violation of Rule 6 of the Muscogee County School District Behavior Code and Discipline Policy, which provides:

Weapons & Dangerous Instruments. A student shall not possess, use, handle or transmit a knife, cane, machete, pistol, rifle, shotgun, pellet gun, or other object that reasonably can be considered a weapon. Any student that makes use of any object as a weapon in an act of violence will be considered for expulsion for the remainder of the year or permanent expulsion. Knives or guns that are considered to be of a criminal nature according to the police will cause expulsion for the remainder of the year or permanent expulsion.

A hearing was held before a student disciplinary tribunal on October 23, 1992. The school officials were unable to locate a gun during the investigation. During the hearing, however, the Student admitted that he and others had been playing with a toy cap gun while in one of his classes. At the conclusion of the hearing, the student disciplinary tribunal voted to expel the Student for the remainder of the year.

The Student's parent filed a timely appeal with the Local Board. On November 16, 1992, the Local Board upheld the decision of the student disciplinary tribunal. The Student's parent then filed a timely appeal to the State Board of Education.

"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, there was no evidence presented at the hearing before the student disciplinary tribunal that the Student had a weapon at the school. The only competent evidence concerning a gun was the Student's statement that he told the juvenile officer that he had a cap gun in one of his classes. The only basis for disciplining the Student is whether a toy gun "reasonably can be considered a

weapon.

With the increased incidence of students carrying guns and other weapons onto school campuses, local boards of education must institute policies to protect the welfare of all the students. If a student brings an object on campus that appears to be a gun, which is a known dangerous weapon, the school authorities can reasonably consider that object to be a weapon. Students must learn that the welfare of all the students demands zero tolerance for weapons on any campus. The State Board of Education concludes that a toy gun reasonably can be considered a weapon and the Local Board did not abuse its discretion in so finding.

Based upon the foregoing, the State Board of Education is of the opinion there was evidence to support the Local Board's decision and the Local Board acted within the scope of its authority. 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