

STATE BOARD OF EDUCATION

STATE OF GEORGIA

TONY P.,	:	
	:	
Appellant,	:	
	:	CASE NO. 1993-43
v.	:	
	:	DECISION
	:	
CHATHAM COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

PART I

SUMMARY

This is an appeal by Tony P. (Student) from a decision by the Board of Public Education for the City of Savannah and the County of Chatham (Local Board) to uphold a Student Disciplinary Panel decision to suspend the Student for the remainder of the semester for disrupting and interfering with the orderly operation of the school and assaulting and hitting others while on the school campus. The Student maintains on appeal that the Local Board violated his right to a fair and impartial hearing. The appeal, however, is moot because the suspension period is over. The appeal, therefore, is dismissed.

PART II

FACTUAL BACKGROUND

On August 31, 1993, the Student shot spitballs during class. After the teacher was hit in the forearm with a spitball, she reported the Student to the principal. The principal recommended a long-term suspension for the Student.

The Student Disciplinary Panel conducted a hearing on September 23, 1993. At the hearing, the teacher testified that the Student and one of his classmates were shooting spitballs. She also testified that the spitballs were coming from the Student's direction and she saw him in possession of a ball point pen used to shoot them. Further evidence was presented by both the teacher and the principal that the Student did not deny hitting the teacher with the spitball. In addition, another student testified that although he did not see the Student's spitball hit the teacher, he did see the Student shooting them.

Evidence was also presented that the students were yelling and talking loudly. In addition, the Student's cousin testified that another student admitted to him that he was the one who hit the teacher with a spitball. The Student Disciplinary Panel voted to adopt the principal's recommendation to suspend the Student until the end of the semester. The Student appealed the decision to the Local Board. The Local Board affirmed the decision of the Student Disciplinary Panel. The Student then appealed the decision of the Local Board on the grounds he did not receive a fair and impartial hearing.

PART III

DISCUSSION

On appeal, the Student claims that his right to a fair and impartial hearing was violated. Specifically, the Student contends that the school failed to comply with O.C.G.A § 50-13-13-(b) and (c) by not giving a jurisdiction statement or a statement of the particular statutes and rules involved. The Student also contends that the panel was not sworn, the Local Board's attorney gave both an opening statement and an opening argument, hearsay evidence was improperly admitted, the hearing officer failed to instruct the panel on what level of evidence is required, the hearing officer was unaware of his power to grant a directed verdict and that the Student could not have disrupted the class as it was already in chaos.

The issues raised in the instant case are moot because the suspension period was over on January 20, 1994. The State Board of Education, therefore, cannot provide any relief. See. Powell v. Fitzgerald County Board of Education. Case No. 1990-19 (Ga. SBE, Sep. 13, 1990).

PART IV

DECISION

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

DISMISSED.

This 14th day of April, 1994.

Mr. Brinson, Mrs. King, Dr. Thornton and Mr. Williams were not present.

Richard C. Owens, Chairman
State Board of Education