

**STATE BOARD OF EDUCATION  
STATE OF GEORGIA**

<b>JASON T.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	<b>CASE NO 1993-44</b>
<b>vs.</b>	:	
	:	<b>DECISION</b>
<b>MUSCOGEE COUNTY BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	

This is an appeal by Jason T. (Student) from a decision by the Muscogee County Board of Education (Local Board) to uphold the October 21, 1993, decision by a Student Discipline Tribunal to expel him for one calendar year because he was in possession of a pocketknife on school grounds. The Student claims on appeal that the punishment is too severe. The Local Board's decision is sustained.

The Student was repeating the seventh grade. On October 21, 1993, a Student Discipline Tribunal conducted a hearing on charges the Student violated Rule 6, Weapons and Dangerous Instruments, of the Local Board's Behavior Code and Discipline Policy by possessing a pocketknife on school grounds. At the hearing, the assistant principal testified that after school on October 7, 1993, he was in the school building talking to two students who had been involved in a fracas at the football game that was being played at the school. When he finished, he was walking one of the students to the front door when he noticed the Student standing outside the door. The assistant principal opened the door and the Student immediately put his hand behind his back, which made the assistant principal suspicious. The assistant principal asked the Student what he had behind his back and the Student denied that he had anything. Finally, the Student produced a four-inch pocketknife.

The Student claimed he found the knife and wanted to turn it in to a teacher. The Student had stayed after school waiting for his mother to pick him up. When she did not arrive by 4:00 p.m., he put his books under a bush beside the entrance to the school and went to the football game, where they were supposed to meet if she was unable to arrive earlier. At the half time, the Student returned to the school to call home to find out if his mother had left for the game. When he retrieved his books, he saw the knife lying beside them. He picked up the knife and went to the school entrance, but it was locked. When the assistant principal came out the door, the Student became frightened because he did not think the assistant principal would believe him and he attempted to hide the knife. The assistant principal told the Student to remain at the entrance. He then went to the football game and found the Student's mother, who said she was looking for the Student to pick him up. The Student and his mother then left the school. The assistant

principal met with the parents the following morning. They told him the Student did not own a knife and they did not allow any knives in the home. The principal turned the matter over to a Student Discipline Tribunal with a recommendation of permanent expulsion.

The Student Discipline Tribunal found the Student guilty of possessing a knife on school grounds and expelled him for one year. The Student appealed to the Local Board, but the Local Board upheld the Student Discipline Tribunal's decision. The Student then appealed to the State Board of Education.

On appeal, the Student claims that the punishment is too harsh. He also claims that the Local Board violated his rights under the Individuals with Disabilities Act, 84 Stat. 175, as amended, 20 U.S.C. §§ 1400 *et seq.*, because he has been diagnosed as having attention deficit disorder.

“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 Bd. of Ed.*, Case No. 1978-7.” *Joseph M v. Jasper Cnty. Bd. of Educ.*, Case No. 1981-40 (Ga. SBE, Feb. 11, 1982). “The control and management of the public schools constitutionally rests with the county board of education and such control and management will not be interfered with except where that control and management is contrary to law. *See, Colson v. Hutchinson*, 205 Ga. 559, 67 S.E.2d 764 (1951); *Boney v. County Board of Education for Telfair County*, 203 Ga. 152 (1947).” *Martinius C. v. Grffin-Spalding County Bd. of Educ.*, Case No. 1992-12 (Ga. SBE, Jul. 9, 1992). “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 JJ v. Hart Cnty. Bd. of Educ.*, Case No. 1991-14 (Ga. SBE, Aug. 8, 1991).

In this case, the Student admittedly had a knife on school grounds. We are unable to determine from the record whether Rule 6 of the Local Board's Behavior Code and Discipline Policy admits of any extenuating circumstances or the Student Disciplinary Tribunal simply did not believe the Student's explanation of how he came into possession of the knife because neither the Student Disciplinary Tribunal nor the Local Board entered any findings of fact and the Local Board's Rule 6 was not introduced in evidence. Since the State Board of Education cannot substitute its judgment for that of the Local Board, and there has not been any showing of any abuse of discretion, we conclude that there is some evidence to support the Local Board's decision.

The Student's claim that his rights under the Individuals with Disabilities Act, 84 Stat. 175, as amended, 20 U.S.C. § § 1400 *et seq.* have been violated is misplaced because he has not been identified as a disabled student under the provisions of the Act. Although the Student's parents claimed that he has attention deficit disorder, there is nothing in the record to indicate that the Student qualifies for any protection under the Act. The State Board of Education,

therefore, concludes that the Local Board did not violate any of the Student's rights under the Act.

Based upon the foregoing, it is the opinion of the State Board of Education that there was some evidence to support the Local Board's decision and there was no showing that the decision was arbitrary or capricious. The Local Board's decision, therefore, is SUSTAINED.

This 10<sup>th</sup> day of March, 1994.

Mr. Williams was not present. Mr. Lathem's seat is vacant due to his resignation effective December 31, 1993.

Robert M. Brinson  
Vice Chairman for Appeals