

STATE BOARD OF EDUCATION

STATE OF GEORGIA

S. S.,	:	
	:	
Appellant,	:	CASE NO. 1997-6
vs.	:	
	:	DECISION
COLUMBIA COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.		

This is an appeal by S. S. (Student) from a decision by the Columbia County Board of Education (Local Board) to change a student disciplinary tribunal's decision without providing any reasons. The tribunal suspended the Student from the regular high school for the remainder of the first semester of the 1996-1997 school year with the option of attending an alternative school. The Local Board decided that the Student could not return to the regular high school during the 1996-1997 school year. The Student claims that since the Local Board's decision increased his punishment without reason, the decision is arbitrary and capricious and must be reversed. The Local Board's decision is reversed.

On November 8, 1996, the Student, a tenth grader, wrote a threatening note to one of his teachers because he perceived that she was treating him improperly in class. The Student admitted that he wrote the note and a student disciplinary tribunal suspended him for the remainder of the first semester with the option of attending alternative school. The Student appealed to the Local Board and wrote that he was not objecting to the long-term suspension, but he wanted to insure that he would be able to return to the regular high school at the end of the first semester. The Local Board decided to "ameliorate" the tribunal's decision and, without stating any reasons, ordered the Student's suspension for the remainder of the 1996-1997 school year with the option of attending an alternative school. The Student filed a timely appeal to the State Board of Education.

A local board of education cannot impose a harsher punishment than the one imposed by a disciplinary tribunal if the local board does not provide an explanation for the harsher punishment. Jacob C. v. Columbia County Bd. of Educ., Case No. 1995-3 1 (Ga. SBE, Aug. 10, 1995)(local board reversed); Ryan B. v. Gwinnett County Bd. of Educ., Case No. 1995-24 (Ga. SBE, Aug. 10, 1995)(local board reversed); Chauncey Z. v. Cobb County Bd. of Educ., Case No. 1992-42 (Ga. SBE, Mar. 11, 1993)(case remanded for reasons).

The Local Board argues that it did not increase the Student's punishment because the tribunal had actually suspended the Student for the remainder of the 1996-1997 school year, but he could have been re-admitted to the regular high school at the end of the first semester if the principal of the alternative school approved. In the alternative, the Local Board asks the State Board of Education to remand the case so that reasons can be entered.

The record does not support the Local Board's argument that the Student was suspended for the remainder of the 1996-1997 school year. At the conclusion of the tribunal hearing, a tribunal member stated:

I recommend long-term suspension for the remainder of this semester with the option of attending [the alternative school at] Crossroads [and] that he is on strict probation for his behavior.

This recommendation was voted on and adopted as the tribunal's decision. The tribunal chair stated that this was the tribunal's decision, but also added that there was a good possibility the Student would have to remain at the alternative school for the remainder of the school year if the alternative school principal decided not to release him. The official notice of suspension stated that the Student had to "successfully complete one semester" at the alternative school. Thus, even though the tribunal voted to suspend the Student only "for the remainder of this semester," the school administration changed the decision to successful completion of one semester in the alternative school.

The Student, acting pro se through his parents, filed an appeal on November 26, 1996, with the Local Board. On December 10, 1996, the Student asked "the Board of Education to uphold the decision of the tribunal ... We are not appealing the suspension ... We simply want the Board to state that the tribunal will uphold the decisions made ... which was long-term suspension and return to his regular school January 23, 1997." There is no indication in the record that the Student was informed that an appeal could result in harsher punishment.

In Chauncey Z. v. Cobb County Bd. of Educ., Case No. 1992-42 (Ga. SBE, Mar. 11, 1993), the student was informed that if he appealed the tribunal decision, the local board could impose a harsher punishment. The student, nevertheless, went ahead with the appeal. When the local board imposed a harsher punishment without any reason, the State Board of Education reversed and remanded the case with direction to enter the reasons why a harsher punishment was imposed.

In Ryan B. v. Gwinnett County Bd. of Educ., Case No. 1995-24 (Ga. SBE, Aug. 10, 1995), the local board's decision to impose a harsher punishment was reversed. The student had appealed to the local board in an attempt to enforce the tribunal's decision that he could be admitted to the alternative school.

The instant case follows Ryan B. The record does not show that the Student was informed that an appeal to the Local Board could result in harsher punishment. Additionally, the record shows that the Student was not appealing the tribunal's decision, but, instead, he was concerned that the school administration was not going to follow the tribunal's decision to suspend him

only for the remainder of the first semester. The Student was not advised about how he could have the tribunal's decision followed without appealing to the Local Board. Had he not appealed the tribunal's decision, it would have been final and the Student could have petitioned the Local Board to enforce the decision if he was denied entrance to the regular school at the beginning of the second semester.

The State Board of Education concludes that the Local Board acted arbitrarily and capriciously 1) in treating the Student's "appeal" as a request to review the entire decision when the Student specifically informed the Local Board that he was merely trying to see that the tribunal's decision was followed, and 2) in entering a harsher punishment without any reasons. We decline to remand the case for the entry of reasons because the Student was attempting to have the school administration follow the tribunal's decision without subjecting him to punishment that exceeded the tribunal's decision.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board's decision was arbitrary and capricious. Accordingly, the Local Board's decision is REVERSED.

This 17th day of March, 1997.

Mrs. Braswell and Mr. Williams were not present.

Larry Thompson
Vice Chairman for Appeal