

STATE BOARD OF EDUCATION

STATE OF GEORGIA

S. J. R. and K. L.,

Appellant,

vs.

CASE NO. 1999-46

**COLUMBIA COUNTY
BOARD OF EDUCATION,**

DECISION

Appellee.

This is a joint appeal by S. J. R. and K. L. (Students) from a decision by the Columbia County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to suspend them through the end of the first semester of the 1999-2000 school year, with the option of attending an alternative school, because they were found guilty of being under the influence of alcohol while attending a school function. The Students claim that the punishment is too harsh and they were denied due process because a witness testified after the evidence was closed. The Local Board's decision is sustained.

On May 7, 1999, the Students attended a school dance. When they entered the building, one of the administrators detected the smell of alcohol. The Students admitted they had consumed some alcohol before arriving at the dance. Upon testing, one of the Students had a 0.02 reading and the other had a 0.032 reading.

Both Students were charged with violating the Local Board's policy that prevents the use of or being under the influence of alcohol while attending a school function. A student disciplinary tribunal conducted a hearing on May 18, 1999 and found the Students guilty. The tribunal expelled the Students until the end of the first semester of the 1999-2000 school year, and the Local Board upheld the tribunal's decision. The Students then filed a timely appeal to the State Board of Education.

On appeal, the Students claim that the punishment is too harsh and that they were denied due process because evidence was presented to the tribunal after the hearing was completed. The record shows that the hearing officer declared the hearing over and a police officer then testified about the results of the alcohol tests. The evidence provided by the police officer, however, was cumulative and unnecessary to support the case against the Students. Although it was error for the hearing officer to permit the police officer to testify after the evidence was closed, the State Board of Education is of the opinion that the error was harmless.

The Students also claim that the punishment is too harsh. "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 for Telfair County*, 203 Ga. 152, 45 S.E.2d 442 (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 Local Board has the authority to expel the Students, O.C.G.A. § 20-2-752, and expulsion through the first semester of the 1999-2000 school year is within the Local Board’s authority.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board did not deprive the Students of due process and the discipline imposed was within the Local Board’s authority. Accordingly, the Local Board’s decision is SUSTAINED.

This \ Vtlay of November 1999.

n .

Vice Chairman for Appeals