

STATE BOARD OF EDUCATION

STATE OF GEORGIA

C. N. E.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 1999-50
	:	
CLAYTON COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by C. N. E. (Student) from a decision by the Clayton County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to permanently expel him from school after finding him guilty of handling a pistol on school property. The Student claims that the punishment is too harsh. The decision of the Local Board is sustained.

In April 1999, the Student, a ninth grader, reported to his parents that another student at his school was selling handguns and other weapons to students and that in February 1999, he had obtained a pistol for his girlfriend. The Student's parents reported the matter to the local police, who conducted an investigation and notified the principal at the Student's high school. The Student was charged with possession of a weapon on school property in violation of Local Board policy. A student disciplinary tribunal conducted a hearing on May 6, 1999 to consider the charges and a recommendation for permanent expulsion.

The Student would not have been charged if he had not become concerned about the availability of guns at his school and told his parents. During the tribunal hearing, the Student testified that in February 1999 he heard another student say she could obtain any weapons that anyone wanted. The Student told the gun supplier that he might need a pistol. The gun supplier then brought a pistol to school and put it in the Student's locker. The Student removed the pistol from his locker and took it home where he later presented it to his girlfriend. The Student then became concerned about the availability of weapons and told his parents about the situation.

The Student's parents called the police and reported that guns were available at the Student's school. The police notified the Student's principal and an investigation was started. The Student told about his February 1999 gun purchase and was charged with possessing a weapon on school property.

The disciplinary tribunal voted to permanently expel the Student and the Local Board upheld the tribunal's decision. The Student then appealed to the State Board of Education. Although the Local Board has moved to dismiss the appeal on the grounds it was filed late, the Local Superintendent certified that the appeal was timely filed.

On appeal, the Student complains that the punishment was too harsh, primarily because he reported the situation and the school administration would not have known about the availability of guns if he had not alerted them. He also argues that the Local Board's decision sends a message to students that they should not report the presence of weapons.

"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 decision to permanently expel a student for possessing a gun on school property is within the authority of a local board of education. In the instant case, the Student has not shown that the Local Board committed any error of law. The State Board of Education, therefore, cannot change the severity of the punishment imposed upon the Student, regardless of the message that the Student may think the decision imparts to other students.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board's decision to permanently expel the Student for possessing a gun on school property was within the Local Board's discretion. Accordingly, the Local Board's decision is SUSTAINED.

This _____ day of November 1999.

Bruce Jackson
Vice Chairman for Appeals