

STATE BOARD OF EDUCATION

STATE OF GEORGIA

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| K. H. P., | : | |
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| Appellant, | : | |
| | : | |
| vs. | : | CASE NO. 1999-70 |
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| CLAYTON COUNTY | : | |
| BOARD OF EDUCATION, | : | |
| | : | |
| Appellee. | : | DECISION |

This is an appeal by K. H. P. (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 because he was carrying a pocket knife at school and had a knife in his car. The Student claims that the Local Board's decision was arbitrary and capricious and too harsh under the circumstances. The Student's appeal is dismissed because the Local Superintendent did not receive it on time.

On August 31, 1999, a report was made that the Student, an eleventh grader, had a gun at school. The principal went to the Student and conducted a search. The principal failed to find a gun, but the Student had a pocket knife with a 2-1/2-inch blade in his pants. The principal also found a knife in the Student's truck in the student parking lot.

The Student was charged with possessing a weapon on school premises. A student disciplinary tribunal found him guilty and decided to permanently expel the Student. The Local Board then upheld the tribunal's decision.

The Student claims that the Local Board's zero tolerance policy makes the Local Board's decision arbitrary and capricious because it does not consider the individual circumstances of each case. There was no evidence in the record that the Local Board has a zero tolerance policy regarding weapons, or that the tribunal did not consider the circumstances involved.

The Student also claims that the Local Board's policy is defective because it does not include knives in its definition of weapons. The Student claims that the Local Board's Policy JCDAE is derived from the federal prohibition against guns, which specifically excludes knives. The Student, therefore, claims that he did not violate the Local Board's policy by having a knife at school.

The Local Board's policy JCDAE provides, "A student shall not possess, handle, or transmit a razor, ice pick, explosive, loaded cane, sword cane, pistol, rifle, shot gun,

pellet gun, or other object that reasonably can be considered a weapon on the school grounds at any time." Regardless of the source of the policy, the language prohibits any "object that reasonably can be considered a weapon." The only question is whether a knife can reasonably be considered a weapon. While knives have multiple benign uses, their use as a weapon is well-enough known that it is reasonable for the Local Board to consider them to be a weapon and expect that the ordinary person would view them similarly.

The Local Board issued its decision on October 4, 1999. The appeal from the Local Board's decision was not received in the Local Superintendent's office until November 15, 1999. O.C.G.A. § 20-2-1160 requires an appeal to be filed with the Local Superintendent within 30 days after a local board makes its decision. If the appeal is not filed on time, the State Board of Education does not have jurisdiction to consider the appeal. *See, Kenisha B. v. Cobb Cnty. Bd. of Educ.*, Case No. 1994-14 (Ga. SBE, May 12, 1994). The appeal in the instant case was filed 41 days after the Local Board made its decision. The State Board of Education, therefore, does not have jurisdiction to consider the appeal.

Based upon the foregoing, it is the opinion of the State Board of Education that the appeal was not timely filed and the State Board of Education does not have jurisdiction to consider the appeal. Accordingly, the appeal is DISMISSED.

This 13th day of April 2000.

Bruce Jackson
Vice Chairman for Appeals