

STATE BOARD OF EDUCATION

STATE OF GEORGIA

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| D. E. , | : | |
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| Appellant, | : | |
| | : | |
| vs. | : | CASE NO. 1999-75 |
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| HENRY COUNTY | : | |
| BOARD OF EDUCATION, | : | |
| | : | DECISION |
| | : | |
| Appellee. | : | |

This is an appeal by D. E. (Student) from a decision by the Henry County Board of Education (Local Board) to suspend him until the end of the first semester of the 1999-2000 school year with the suspension to be served in school. The Local Board's decision was made after a student disciplinary tribunal found the Student guilty of possessing a marijuana cigarette on campus. The Student claims the punishment is too harsh and there was no evidence to support the charges. The issues raised by the Student are moot but even on the merits the Local Board's decision is sustained.

On October 14, 1999, marijuana was found in the Student's car after a dog, which was trained to detect drugs, gave signs that the car had drugs inside. The Student voluntarily allowed the search of his car that resulted in the discovery of the butt of a marijuana cigarette. The police performed three field tests on the cigarette and all of them showed positive for marijuana. The Student was charged with violating the Local Board's policy that prohibits the possession on campus of any unlawful drug.

Although the Student claims that his punishment was racially motivated, the record does not contain any evidence that the decision of either the disciplinary tribunal or the Local Board was racially motivated or was influenced in any way whatsoever by the Student's race. The Student's grandmother made wholly unsupported allegations before the tribunal that the charges against the Student were racially motivated, but failed to introduce any evidence of any racial bias. The allegations, standing alone, are not evidence. The State Board of Education, therefore, concludes that the Student's claim of racial bias is completely without merit.

The Student claims that the evidence did not support the finding of guilt of possession. There was, however, the testimony of the administrator who found the marijuana and the testimony of the police officer who tested the marijuana. The police officer was trained and certified to make tests on drugs. "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 J. v. Hart Cnty. Bd. of Educ.*, Case No. 1991-14 (Ga. SBE, Aug. 8, 1991). The State Board of Education therefore concludes that there was evidence to support the Local Board's decision.

The Student also claims that the punishment was too harsh because it was for too long a period. "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). There is nothing in the record or in the Student's arguments to indicate that the suspension for the remainder of the semester was too harsh.

Based upon the foregoing, it is the opinion of the State Board of education that there was evidence to support the Local Board's decision, the decision was not too harsh, and there was no evidence that the decision was racially motivated. The Local Board's decision, therefore, is SUSTAINED.

This 29th day of March 2000.

Bruce Jackson
Vice Chairman for Appeals