

STATE BOARD OF EDUCATION
STATE OF GEORGIA

K. P.,

Appellant, :

vs.

CASE NO. 2001-06

SAVANNAH-CHATHAM COUNTY :

BOARD OF EDUCATION, :

Appellee. :

DECISION

This is an appeal by K. P. (Student) from a decision by the Savannah-Chatham County Board of Education (Local Board) to uphold the decision of a student disciplinary officer to permanently expel her because she suggested to another student that the other student should light a fire in the girls' restroom. The hearing officer gave the Student the option of attending an alternative school and the Local Board added an additional proviso that the Student and her mother had to attend family counseling. The Student claims that there was no evidence she was involved in starting the fire and she was being improperly punished for previous incidents. The Local Board's decision is reversed.

On April 27, 2000, a friend of the Student, S. G., found a lighter in the pocket of her jacket while they were in their fifth period class in the eighth grade. The Student said to S. G., "Wouldn't it be funny if someone lit fire to the trash can." Following lunch, which was during the next period, both S. G. and the Student were in another class together. The Student was excused to go to the restroom where she found several other students from another class. S. G. then left the classroom without permission and went to the restroom. The Student left the restroom with the students from the other class. S. G. then lit a fire in a trashcan and disposed of the lighter.

Upon discovery, S. G. admitted that she set the fire, but she said that the Student was involved because the Student had suggested that she start a fire and had given her some napkins to light on fire. The Student admitted that she said it would be funny to light a fire, but she denied that she gave S. G. any napkins or had any participation in lighting the fire.

At the hearing before the student disciplinary tribunal, both the Student and S. G. reiterated the statements they gave during the investigation. The Local Board's attorney then proceeded to question the Student's principal about all the previous incidents in which the Student had been involved to establish that the Student could not be trusted to tell the truth. The Student, who appeared pro se, did not object to the introduction of the evidence concerning the previous incidents.

The record of the hearing is devoid of any charges made against the Student. The Local Board's attorney asserted in his opening statement that the Student was an accessory to starting the fire, but no charges were introduced or made a part of the record. On appeal, the Student claims that she does not know whether she was permanently expelled because she said something about how funny it would be to start a fire, or whether she was expelled because of her prior record.

Before a student can be disciplined for more than 10 days, the student has to be informed about the charges in a manner that will permit the student to present a meaningful defense. *See, Damon P. v. Cobb Cnty. Bd. of Educ.*, Case No. 1993-9 (Ga. SBE, May 13, 1993). In the instant case, there was no evidence that the Student received any charges or was ever put in a position to present a meaningful defense.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board denied the Student due process by not providing her with specific charges against which she could present a meaningful defense. Accordingly, the Local Board's decision is REVERSED.

This _____ day of October 2000.

Bruce Jackson
Vice Chairman for Appeals