

STATE BOARD OF EDUCATION

STATE OF GEORGIA

B. G.,

Appellant, :

:

vs. :

CASE NO. 2001-13

:

PIKE COUNTY :

BOARD OF EDUCATION, :

:

DECISION

Appellee. :

:

This is an appeal by B. G. (Student) from a decision by the Pike County Board of Education to expel him for the remainder of the semester after finding him guilty of using or possessing a narcotic drug (Ritalin). The Student claims that there was no evidence that he violated the Local Board's rule and that the Local Board violated his due process rights by conducting the hearing of another student involved in the incident before rendering a judgment in his case. The Local Board's decision is reversed.

The Local Board has a policy that provides that "a student shall not knowingly possess, use, transmit, or be under the influence of any narcotic drug, hallucinogenic drug" Pike County Board of Education Policy JCDAC, August 1993. On August 30, 2000, another student brought a pen to school that was filled with a white, powdery substance. The second student put some of the substance on a card and told the Student that it was sugar. The Student and a third student sniffed the substance. The second student then told the Student and the third student that the lumps of a grayish substance in the pen were uncrushed pieces of Ritalin. The Student was charged with violating the Local Board's Policy JCDAC and a hearing was held before the Local Board.

At the conclusion of the Student's hearing, the Local Board voted to conduct the hearings against the other students before it made a decision in the Student's case. The Student was unable to participate in the hearings involving the other students and did not have an opportunity to cross examine any of the witnesses who appeared in the other hearings. At the conclusion of the other hearings, the Local Board found the Student guilty of violating Policy JCDAC and suspended him from school for the remainder of the semester and placed him on probation for the rest of the school year. The Student then appealed to the State Board of Education.

The Student claims that he was denied due process because he was unable to participate in and cross examine the witnesses that appeared in the hearings of the other students, thus permitting the Local Board to consider evidence that was not presented at his hearing. The Local Board argues that the record does not contain any evidence that it

considered any evidence from outside the Student's hearing. The Local Board's argument proves the Student's complaint; he did not have access to the evidence that was presented to the Local Board, and, therefore, obviously does not have any evidence of impropriety to present. The Local Board's argument belies the fact that if additional evidence from the other hearings was not going to be considered, there was no reason for the Local Board to delay rendering a decision once it completed the Student's hearing.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board denied the Student due process when it conducted the hearing of the other students before making a decision regarding the Student. The Local Board's decision, therefore, is hereby

REVERSED.

The _____ day of January 2001.

Bruce Jackson
Vice Chairman for Appeals