

STATE BOARD OF EDUCATION

STATE OF GEORGIA

J. F.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2004-06
	:	
DEKALB COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by J. F. (Student) from a decision by the DeKalb County Board of Education (Local Board) to let the decision of a student disciplinary tribunal stand because the appeal was untimely filed. The Student claims that the school system failed to notify his attorney in writing when the tribunal's decision was issued. Consequently, the appeal was filed late. The Student's appeal is dismissed because the State Board of Education lacks jurisdiction to consider the issues raised.

The Student was involved in a fight in a classroom and was charged with assault, battery, classroom disturbance, school disturbance, and the use of profanity. A student disciplinary tribunal conducted a hearing on the charges. The Student was represented by an attorney. At the end of the hearing, the tribunal chairperson told the parties that a decision would be reached later in the day and that "... you have the right to appeal that decision within 20 calendar days from today." In addition, the parties were given a telephone number to call on the following day to find out what the tribunal had decided. The tribunal expelled the Student from regular school and assigned him to an alternative school until the end of the first semester of the 2003-2004 school year and placed him on probation during the 2004-2005 school year. Three days later, the school system sent a written copy of the decision to the Student but did not send a copy to the Student's attorney.

Three days after the appeal was due, the Student mailed his appeal and it was received four days after the appeal was due. The Local Board deemed the appeal to be late and refused to consider it. The Student then appealed to the State Board of Education.

The Student claims that he was denied procedural due process because the school system failed to mail a copy of the decision to his attorney. O.C.G.A. § 20-2-754(c) provides that the decision of a tribunal has to be in writing and "given to all parties" within 10 days after the record is closed. Additionally, the tribunal's decision can be appealed to the local board of education if a written notice of appeal is filed within 20

days from the date the decision is given. O.C.G.A. § 20-2-754(b) provides that the parties may be represented by legal counsel at any hearing before a tribunal. The Student argues that since he was represented by an attorney, the written notice of the decision should have gone to the attorney, and the failure to send a copy of the written notice constitutes a denial of due process.

The Local Board points out that the Student failed to point to any law that requires the notice to be sent to the attorney when the notice was actually sent to the Student's parents. The Student, and the Student's attorney, received actual notice on the day of the hearing that the appeal would be due in 20 days after the date of the hearing. There is, therefore, no question that the Student knew when the appeal had to be filed. Since the Student received actual written notice of the decision, and was informed orally and in writing when the appeal had to be filed, the State Board of Education concludes that the Student was not denied due process.

Based upon the foregoing, it is the opinion of the State Board of Education that the appeal was not timely filed and the Local Board did not deny the Student procedural due process. Accordingly, the Student's appeal is
DISMISSED.

This 9th day of October 2003.



Wanda T. Barrs
Chairperson - State Board of Education