

STATE BOARD OF EDUCATION

STATE OF GEORGIA

L. M.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2005-09
	:	
GWINNETT COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by L. M. (Student) from a decision by the Gwinnett County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him until December 31, 2004 from regular school after finding him guilty of cheating on a computer test. The Student claims he was not given proper notice that he could be expelled, that the Local Board did not have the authority to expel him, and the punishment is too harsh. The Local Board’s decision is sustained.

On April 2, 2004, the Student copied another student’s work in a computer science class. The Student’s teacher became suspicious and asked him whether he had done the work. The Student said that he had, but the teacher found the assignment on the other student’s computer. The student’s teacher reported the incident and the Student was charged with lying and cheating.

On May 19, 2004, a student disciplinary panel held a hearing and found that the Student had cheated and then lied to his teacher about the cheating. The panel decided to expel the Student from regular school until December 30, 2004, with the opportunity of attending an alternative school during his period of expulsion. When the Student appealed to the Local Board, the Local Board upheld the tribunal’s decision. The Student then appealed to the State Board of Education.

The Student claims the Local Board failed to notify him that he could be expelled for his conduct. The Local Board’s policy regarding the conduct of disciplinary panels states that a student shall receive a notice that includes a statement regarding the maximum penalty that can be administered for the alleged conduct. The Student claims that since the notice given to him did not state that he could be expelled, the Local Board denied him due process of law.

The Student’s claim that he did not receive notice that he could be expelled is without merit. The notice sent to the Student clearly states, in a separate, isolated paragraph:

“The minimum penalty which [sic] may be administered for the alleged misconduct is ten (10) school days, or the

maximum penalty which [sic] may be administered for the alleged misconduct is permanent expulsion.”

The Student claims that the notice does not identify the charge that could result in expulsion. The Student, however, has not shown where there is any requirement to identify specifically the particular charge that could result in expulsion. The Student also has not shown that any harm resulted from any failure to identify the particular charge that could result in expulsion. Georgia law, O.C.G.A. § 20-2-754(B)(1), provides that the pre-hearing notice “shall include a statement of the time, place and nature of the hearing; a short and plain statement of the matters asserted; and a statement as to the right of all parties to present evidence and be represented by legal counsel.” All of these elements were contained in the notice given to the Student. The State Board of Education, therefore, concludes that the notice given to the Student was sufficient.

The Student also claims that the Local Board did not have the authority to expel him because the Gwinnett County Student Conduct Behavior Code did not notify him that he could be expelled for his conduct. As stated above, the Student has not identified any requirement in law of a need to identify in advance the consequences of a student’s action. O.C.G.A. § 20-2-755 provides that a disciplinary officer, panel, or tribunal can decide to expel a student brought before them. The Local Board, therefore, had the authority to expel the Student because of his conduct.

The Student claims that there is a shocking disparity between the punishment and the infractions he committed. “[I]f a local board of education imposes any disciplinary measures that are within its authority, the State Board of Education will not change the discipline imposed even if the State Board of Education disagrees with the extent of the discipline unless the discipline is completely disproportionate to the offense.” *E. B. v. Gwinnett Cnty. Bd. of Educ.*, Case No. 1999-47 (Ga. SBE, Nov. 11, 1999). While the Student may attempt to trivialize his infractions, they represent an attack on core values necessary for civilized commerce and discourse. The State Board of Education, therefore, concludes that expulsion for the equivalent of one semester is not disproportionate to the offense.

Based upon the foregoing, it is the opinion of the State Board of Education that the Student received proper notice, the Local Board had the authority to expel him, and the punishment was not disproportionate to the offense. Accordingly, the Local Board’s decision is
SUSTAINED.

This _____ day of December 2004.

William Bradley Bryant
Vice Chairman for Appeals