

STATE BOARD OF EDUCATION

STATE OF GEORGIA

J. W.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2005-22
	:	
HOUSTON COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by J. W. (Student) from a decision by the Houston County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him from regular school until the end of the 2004-2005 school year and assign him to an alternative school during his expulsion period after the tribunal found him guilty of chronic disruptive behavior. The Student claims that the transcript was improperly prepared and that the Local Board failed to record its proceedings. The decision of the Local Board is sustained.

On November 17, 2004, a teacher observed the Student, a middle-school student, eating some sunflower seeds. She also saw the Student drop some hulls on the floor. The teacher asked the Student to pick up the hulls and he refused because he said he had not dropped the hulls and was not going to pick up hulls that had someone else's spittle on them. The Student became upset and yelled at the teacher. The teacher sent the Student to an assistant principal's office and cited him for disrespect. While in the assistant principal's office, the Student began yelling again and accused the assistant principal of wanting to kick him out of school. The Student then ran from the office and refused to return. The Student went to a restroom and stayed there for a while, finally returning to the central office area after a counselor intervened. The Student then began yelling again at the assistant principal and called him stupid. Because of previous disciplinary actions, the Student was charged with chronic disruptive behavior.

At a hearing before a student disciplinary tribunal, all of the essential facts were undisputed. The Student accused the assistant principal of being biased against him and gave evidence that he receives special education services because he has been diagnosed as having attention deficit hyperactivity disorder (ADHD). An individualized educational program panel determined that his outburst was unrelated to his ADHD. After the hearing, the tribunal found the Student guilty and expelled him from regular school for the remainder of the 2004-2005 school year with services to be provided in an alternative school. The Local Board upheld the tribunal's decision and the Student then filed an appeal to the State Board of Education.

The Student first complains that the transcript is incorrect because the recording secretary improperly inserted a reference to “God” in connection with the swearing in of the witnesses. The Student asserts that this shows that the transcript provides a distorted view of the proceedings. The Student, however, has not shown that any other portion of the transcript was in error, and has failed to show that there was any harm because the secretary inserted the words “so help you God” in reporting the oath of the witness. The State Board of Education concludes that the Student’s claim does not provide any basis for disturbing the Local Board’s decision.

The Student claims that the Local Board should have recorded its discussions of the case. The Student has not cited any provision of law to support his contention. The record is clear that the Local Board had the transcript and evidence concerning the Student’s ADHD. Since there is no requirement for the Local Board to transcribe its proceedings, the Student’s claim does not provide any basis for disturbing the Local Board’s decision.

The State Board of Education serves as an appellate review body to determine if there have been any legal errors in the proceedings before a local board. In this case, the Student has not shown that the Local Board committed any legal errors in the proceedings or that he was otherwise denied due process.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board afforded due process to the Student and there was evidence to support the Local Board’s decision. Accordingly, the Local Board’s decision is SUSTAINED.

This _____ day of March 2005.

Carol S. Williams
Vice Chairperson
State Board of Education