

**STATE BOARD OF EDUCATION**  
**STATE OF GEORGIA**

<b>H. S.,</b>	:	
	:	
<b>Appellant,</b>	:	<b>CASE NO. 2009-30</b>
	:	
<b>vs.</b>	:	
	:	
<b>COBB COUNTY</b>	:	<b>DECISION</b>
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	

This is an appeal by H. S. (Student) from a decision by the Cobb County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him permanently after finding him guilty of possessing a gun and a knife at school. The Student claims that the punishment is too harsh because he was being threatened by other students and the administration would not provide him any protection. The decision of the Local Board is sustained.

On September 19, 2008, the principal at the Student’s school discovered a loaded .45-calibre pistol and a knife with a 3-inch blade in the Student’s book bag. The Student was a ninth grader at the time of the incident. Several other students saw the gun and the administration deemed it necessary to send a letter to all the parents at the school that told them about finding the gun. The Student was charged with possessing a weapon and causing a school disruption.

At the student disciplinary tribunal hearing on the charges, the Student admitted that he possessed the weapons, but argued that he had brought them because he had been threatened by some other students and he felt the weapons were necessary because he did not believe the school administration would provide him any protection. The tribunal expelled the Student permanently without any opportunity to attend an alternative school.

The Student appealed the decision to the Local Board on the ground that the decision was too harsh and he should have been given an opportunity to attend an alternative school. The Local Board upheld the tribunal’s decision and the Student filed an appeal to the State Board of Education.

On appeal to the State Board of Education, the Student claims that the punishment is too harsh and is counter to the provisions of O.C.G.A. § 20-2-768(b) and (c), which provide:

(b) A hearing officer, tribunal, panel, superintendent, or local board of education shall be authorized to place a student denied enrollment in a local school system under subsection (a) of this Code section in an

alternative educational system as appropriate and in the best interest of the student and the education of other students within the school system.

(c) It is the policy of this state that it is preferable to reassign disruptive students to alternative educational settings rather than to suspend or expel such student from school.

O.C.G.A. §20-2-768 (LexisNexis, 2008). The Local Board counters that permanent expulsion in a weapons case is not inappropriate and is sanctioned by O.C.G.A. §20-2-751.1(a), which provides:

Each local board of education shall establish a policy requiring the expulsion from school for a period of not less than one calendar year of any student who is determined ... to have brought a weapon to school.

O.C.G.A. §20-2-751.1(a) (LexisNexis, 2008).

Although it is a policy of the state to keep students in school, the administrators of our schools must also be concerned about the welfare of all the other students in their charge. O.C.G.A. § 20-2-768 recognizes this dual responsibility and does not mandate an alternative school assignment, but, instead, leaves the matter in the discretion of the local board of education, while considering the interests of the student and the other students.

The State Board of Education has always taken the position that it cannot adjust the level or degree of discipline imposed by a local board of education. *B. K. v. Bartow Cnty. Bd. of Educ.*, Case No. 1998-33 (Ga. SBE, Sep. 10, 1998). Local boards of education are authorized to permanently expel students who handle guns at school, even when the amount of handling is minimal and unobserved by anyone. *See, e.g., C. N. E. v. Clayton Cnty. Bd. of Educ.*, Case No. 1999-50 (Ga. SBE, Dec. 9, 1999).

The Student also claims that he received different punishment than another student who was involved in the incident. There is no evidence contained in the record regarding the other student. In its review, the State Board of Education is confined to the record and cannot consider anything that was not introduced before the tribunal or the local board. O.C.G.A. § 20-2-1160(e).

Based upon the foregoing and a review of the record, it is the opinion of the State Board of Education that permanent expulsion of the Student was authorized. Accordingly, the Local Board's decision is SUSTAINED.

This \_\_\_\_\_ day of May 2009.

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William Bradley Bryant  
Vice Chairman for Appeals