

STATE BOARD OF EDUCATION

STATE OF GEORGIA

I. W.,	:	
	:	
Appellant,	:	CASE NO. 2009-36
	:	
vs.	:	
	:	
HENRY COUNTY	:	DECISION
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by I. W. (Student) from a decision by the Henry County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to suspend him until the end of the 2008-2009 school year after finding him guilty of leaving a bus without permission. The Student claims that he was denied due process because he was not permitted to ask any questions about the due process afforded him in his previous disciplinary actions. The Local Board’s decision is sustained.

On December 8, 2008, the Student, along with several other students, exited a bus at an unauthorized bus stop when two other students were preparing to fight and the driver stopped the bus to tend to the disturbance. The school system charged the Student with exiting a bus at an unauthorized stop. Because he had more than seven previous offenses, the school system sent the matter to a student disciplinary tribunal.

The tribunal hearing officer found the Student guilty of the charge, which the Student did not dispute. The hearing then proceeded to the disciplinary phase and the hearing officer would not let the Student ask an assistant principal any questions about the due process he received during the previous offenses. The tribunal hearing officer suspended the Student until the end of the 2008-2009 school year, with the option of attending an alternative school during his suspension period. The Local Board upheld the hearing officer’s decision when the Student appealed. The Student then filed an appeal with the State Board of Education.

The Student claims he was denied due process when he was not allowed to ask questions about the previous offenses. Additionally, the Student claims that the hearing officer failed to weigh various factors in deciding the degree of punishment.

The Local Board’s rules for student conduct provide that in-school suspension is the discipline prescribed for not using the assigned bus stop. If, however, a student has more than six prior violations, the rules provide that a student can be suspended or expelled. In the instant case, the Student had eleven previous violations. The Student

claims that he should have been able to ask questions about whether he received notice and due process in connection with the previous violations. The Student's argument is based on his assertion that the previous violations were the sole basis for his suspension, thus opening them up to inquiry.

The Student cites *Goss v. Lopez*, 419 U. S. 565, 95 S. Ct. 729, 42 L.Ed2d 725 (1975), to support his argument. In *Goss*, the Court stated that when a student is facing less than a ten-day suspension, the student has to "be given oral or written notice of the charges against him and, if he denies them, an explanation of the evidence the authorities have and an opportunity to present his side of the story." *Goss* at 581, 739, 740. The Court went on to state that the notice did not have to be a formal matter and that "[i]n the great majority of cases the disciplinarian may informally discuss the alleged misconduct with the student minutes after it has occurred. We hold only that, in being given an opportunity to explain his version of the facts at this discussion, the student first be told what he is accused of doing and what the basis of the accusation is." *Goss* at 582, 739, 740.

Goss did not impose a formalized process or procedure on short-term suspensions. Some rudimentary notice of the charge is all that is required. The Henry County Secondary Student & Parent Handbook, 2008-09, provides that parents must be notified any time a student commits an offense. There was no evidence that school officials failed to carry out their duty to notify. On the contrary, the Student's mother testified about the conferences she had regarding the Student's previous conduct. The time for contesting how the previous violations were handled was when they occurred rather than at a subsequent proceeding involving another matter. The State Board of Education concludes that the hearing officer did not err in limiting the Student's questions about the previous infractions.

There was no evidence that the hearing officer failed to consider all of the necessary factors when he decided on the degree of punishment to impose. The State Board of Education concludes that the tribunal hearing was properly conducted.

Based upon the foregoing and a review of the record, it is the opinion of the State Board of Education that the Local Board provided the Student with due process and there is no basis for reversal of the Local Board's decision. Accordingly, the Local Board's decision is
SUSTAINED.

This _____ day of May 2009.

William Bradley Bryant
Vice Chairman for Appeals