

**STATE BOARD OF EDUCATION  
STATE OF GEORGIA**

<b>P.C.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>v.</b>	:	<b>CASE NO. 2009-52</b>
	:	
<b>DEKALB COUNTY BOARD OF EDUCATION,</b>	:	<b>DECISION</b>
	:	
<b>Appellee.</b>	:	

This is an appeal by P.C. (“Student”) from a decision by the DeKalb County Board of Education (“Local Board”) to suspend the Student for the remainder of the 2008-2009 school year with the option to enroll in the alternative school, and being placed on probation for the 2009-2010 school year. Specifically, the Local Board found that the Student violated the Local Board’s rules by possessing a weapon (a utility tool) while at school. For the reasons set forth below, this appeal is sustained because the record contains evidence supporting the decision of the Local Board.

**I. BACKGROUND**

The Student attends Columbia High School. On February 10, 2009, another student kept calling the Student by his name. The Student told him not to keep calling his name or he would get him. Nevertheless, the other student continued to do so. The Student approached the other student and pulled out a utility knife. The other student jumped back and ran to notify the security officer. The security officer confronted the Student, and the Student turned over the utility knife to the security officer. The incident was reported to the administration. The Local Board then notified the Student that he was charged with violating the Local Board’s Student Code of Conduct.

The Student requested a hearing, and the Local Board convened a hearing tribunal. After hearing all the evidence, the hearing tribunal recommended to suspend the Student for the remainder of the 2008-2009 school year with the option of enrolling in the alternative school, and being placed on probation for the 2009-2010 school year. The Local Board affirmed the decision of the tribunal, but reduced the suspension to time served, maintained the Student’s probation for the 2009-2010 school year, but added a stipulation that the discipline record would be cleared after successful completion of the probation.

## **II. ERROR ASSERTED ON APPEAL**

### **A. Due Process.**

The Student contends that his due process rights were violated because the Local Board did not conduct a complete investigation before proposing disciplinary action against the Student. However, the Local Board provided the Student with a hearing tribunal. The Student was provided notice and an opportunity to be heard in accordance with O.C.G.A. § 20-2-754. The Student's assertion that the Local Board did not provide a proper investigation does not give rise to a due process violation. Q.H. v. Newton County Bd. of Educ., Case No. 2007-25 (Ga. SBE, April 2007); C.D. v. Wayne County Bd. of Educ., Case No. 2008-09 (Ga. SBE, Dec. 2007). Thus, this assertion is without merit.

### **B. Lack of Findings of Fact.**

The Student contends that the Local Board erred because the decision is not supported by findings of fact. However, the Local Board is not required to issue findings of fact. Rather, O.C.G.A. § 20-2-754(c) only requires that the tribunal issue its decision in writing. Likewise, O.C.G.A. § 20-2-754(d) only requires that the Local Board issue its decision in writing. In this case, the tribunal and Local Board did so. Thus, this assertion is without merit.

### **C. Record Evidence.**

The Student further contends that the decision is not supported by the evidence. The Local Board has the burden of proof when it charges a student with an infraction of its rules. Scott G. v. DeKalb Cnty. Bd. of Educ., Case No. 1988-26 (Ga. SBE, Sep. 1988). If the Local Board meets its burden, the State Board is required to affirm the decision of the Local Board if there is any evidence to support the decision, unless there is abuse of discretion or the decision is arbitrary and capricious as to be illegal. See Ransum v. Chattooga County Bd. of Educ., 144 Ga. App. 783 (1978); Antone v. Greene County Bd. of Educ., Case No. 1976-11 (Ga. SBE, Sep. 1976). “[T]he State Board of Education will not disturb the finding [of the Local Board] unless there is a complete absence of evidence.” F.W. v. DeKalb County Bd. of Educ., Case No. 1998-25 (Ga. SBE, Aug. 1998).

In this case, the Student was charged with possessing a weapon. The Local Board policy defines a weapon to include utility knives and tools. The Student contends that he possessed the utility knife because he worked on computers at Columbia High School. The Student further contends that he did not pull it out on the other student, and that the videotape does not conclusively show that he pulled the knife out on the other student. These assertions are irrelevant. The Student was charged with possessing a weapon while at school. The undisputed evidence shows that the Student possessed a utility knife while at school. Once the Student was confronted by the security officer, the Student turned over the utility knife to the security officer. Thus, the decision of the Local Board is supported by admissible evidence.

**D. Level of Punishment.**

The Student asserts that the discipline he received is excessive and detrimental to his future academic success. However, a violation of the Local Board's weapons policy includes punishment up to expulsion. Thus, the punishment received by the Student is within the range of punishment allowed by the Local Board's policy. Moreover, "The State Board of Education . . . cannot adjust the level or degree of discipline imposed by a local board of education." B.K. v. Bartow County Bd. of Educ., Case No. 1998-33 (Ga. SBE, Sep. 1998). Thus, this Board cannot alter the Student's discipline.

**III. CONCLUSION**

Based upon the reasons set forth above, it is the opinion of the State Board of Education that the evidence supports the decision of the Local Board, and it is therefore **SUSTAINED**.

This \_\_\_\_\_ day of August, 2009.

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WILLIAM BRADLEY BRYANT  
VICE CHAIRMAN FOR APPEALS