

STATE BOARD OF EDUCATION

STATE OF GEORGIA

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| VASHON P., | : | |
| | : | |
| Appellant, | : | |
| v. | : | |
| | : | CASE NO. 1991-30 |
| TREUTLEN COUNTY | : | DECISION |
| BOARD OF EDUCATION, | : | |
| | : | |
| Appellee. | : | |

This is an appeal by Vashon P. ("Student") from a decision by the Treutlen County Board of Education ("Local Board") to expel him for the 1991-1992 school year. The Student claims that the Local Board lacked the authority to discipline him because school was not in session when he was involved in a fight with another student. The decision of the Local Board is sustained.

On August 5, 1991, the Student went to the campus of Treutlen High School and sought out another student who was engaged in football practice. When football practice ended, the Student began fighting with the other student. The football coaches broke up the fight and told the students to go home. When the Student was released, he again attacked the other student. The coaches separated them again and allowed the Student to leave.

During the previous year, the Student had been involved in a number of minor incidents in the classroom. On March 11, 1991, the Local Board placed the Student on probation for the remainder of the 1990-1991 school year. He apparently completed the 1990-1991 school year without further incident.

On August 19, 1991, the Local Board held a hearing to consider the August 5, 1991, fight. When the hearing was over, the Local Board voted to deny the Student admission for the 1991-1992 school year "since he was already on probationary basis." The Student filed a timely appeal with the State Board of Education.

On appeal, the Student argues that the Local Board exceeded its authority because the incident occurred between school sessions. He argues that because school was not in session at the time of the incident, he was not a student so the Local Board could not exercise any control over him. He also claims that the Local Board did not have any policies that govern student conduct when school is not in session.

The Local Board argues that since the Student was enrolled at the end of the 1990-1991 school year and wants to enroll during the 1991-1992 school year, he cannot successfully argue that he was not a student; the summer break did not cause him to drop his status as a student. The Local Board also argues that since the incident occurred on campus while school activities were taking place it had authority to impose discipline.

The State Board of Education is of the opinion that the Local Board could exercise authority when the Student was enrolled in school, had not dropped out of school, came on campus while a school activity was being conducted, and engaged in a fight with another student. Although academic classes were not in session, school activities were in progress on the campus at the time of the incident. School, therefore, was in session at the time of the incident. The situation is not different from an incident that occurs after classes are over for the day. In such a situation, the Local Board had the authority to control the conduct of the persons present on the campus.

The Student also flouted the authority of the teachers who were present by attacking the other student after he had been told to stop fighting. The Student should have known that he was subject to expulsion for fighting and disobedience of and defiance towards the teachers who were present even if the Local Board did not have any policies or rules governing the circumstances.

The Student also claims that the Local Board's decision should be reversed because he was not informed of his right to appeal to the State Board of Education. Appellant's appeal, however, was timely made so that the Local Board's failure did not cause him any harm. The Local Board's decision, therefore, will not be overturned because of its failure to notify the Student of his right to appeal.

Based upon the foregoing, the State Board of Education is of the opinion that the Local Board had the authority to expel the Student for the 1991-1992 school year because he was fighting with another student on campus while school activities were taking place. The Local Board's decision, therefore, is

SUSTAINED.

This 9th day of January, 1992.

Mr. Owens voted to reverse the decision of the Treutlen County Board of Education. Mr. Brandon was not present.

James H. Blanchard
Vice Chairman for Appeals