

STATE BOARD OF EDUCATION

STATE OF GEORGIA

DERRICUS H. and SCOTTIE R.,	:	
	:	
Appellants,	:	
	:	
	:	CASE NO. 1994-1
	:	CASE NO. 1994-2
vs.	:	
	:	
	:	DECISION
ROME CITY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

**PART I
SUMMARY**

This is an appeal from a decision by the Rome City Board of Education (Local Board) to uphold the decision of a Student Disciplinary Tribunal to permanently expel Derricus H. and Scottie R. from the Rome City School System because they were involved in a fight on school grounds. The two cases arose out of the same general incident and, therefore, have been combined in this opinion. The Appellants maintain on appeal that the decision of the Local Board was arbitrary and capricious and too harsh. The decision of the Local Board is reversed in both cases.

**PART II
FACTUAL BACKGROUND**

On October 6, 1993, two students began to fight in the hall of the high school. While teachers physically restrained the two antagonists, Derricus H. arrived on the scene. Another student hit him and he struck back. The two separated and Derricus H. began moving away from the scene when a teacher grabbed him from behind and pulled him into a room adjacent to the hall. Scottie R. was approaching the scene when he was also grabbed from behind by a teacher. Both Derricus H. and Scottie R. were temporarily suspended and the principal referred the incidents to a Student Disciplinary Tribunal with a recommendation of permanent expulsion.

The Student Disciplinary Tribunal conducted a hearing on October 18, 1993. At the Student Disciplinary Hearing, evidence was presented that a student, who was not disciplined at all, initiated a fight with Derricus H. because he thought Derricus H. was going to get involved in the initial fight that involved his friend. Derricus H. testified that he had stopped fighting with the student because the student was fighting with someone else. Derricus H. also testified that as he was walking away, a teacher unnecessarily restrained him and pulled him into a room. The teacher testified that he did not actually fight with Derricus H. or see him fighting, but that he thought Derricus H. would get involved in the fight had he not physically restrained him. Additional evidence was presented that the teacher began to have an asthma attack and Derricus H. left the room in order to get the teacher help.

Evidence was also presented that Scottie R. got involved in the altercation because he wanted to help Derricus H. Although Scottie R. was physically restrained and the Principal thought that if he was not restrained he would have involved himself in the fight, there was no evidence presented that anyone actually saw Scottie R. fighting or that he would have actually fought had he not been restrained.

The Student Disciplinary Tribunal found both Derricus H. and Scottie R. guilty of violating the Rome City Board of Education Policy GACDA Rules 1(e), 1(g), 1(j), 5 and 8 and voted to permanently expel them from the Rome City School System. The Local Board met on November 15, 1993, and voted to uphold the Student Disciplinary Tribunal decision. Appeals were then filed with the State Board of Education.

PART III DISCUSSION

On appeal, Appellants maintain that the punishment was too harsh and that the Local Board's decisions were arbitrary and capricious. "The standard for review by the State Board of Education is that if there is any evidence to support the decision of the local board of education, then the local board's decision will stand unless there has been an abuse of discretion or the decision is so arbitrary and capricious as to be illegal. See. Ransum v. Chattooga County Bd. of Educ., 144 Ga. App. 783, 242 S.E.2d 374 (1978); Antone v. Greene County Bd. of Educ., Case No. 1976-11 (Ga. SBE, Sep. 8, 1976) ; Roderick J. v. Hart Cnty. Bd. of Educ., Case No. 1991-14 (Ga. SBE, Aug. 8, 1991). In both of these cases, the record shows that the Local Board abused its discretion by permanently expelling Appellants when it did not expel other students involved in the fight and there was no showing that Scottie R. became involved in any fight.

Appellants were denied equal protection because other students committing the same or more serious infractions during the altercation escaped with less severe disciplinary actions. The student who initiated the attack on Derricus H. was not disciplined at all. Another student, who threatened several teachers with bodily injury during the same incident, received only a 30-day suspension.

The Local Board failed to establish that the punishments given to either Derricus H. or Scottie R. fit the infractions they committed. There was no evidence at all that Scottie R. ever became involved in any fight. As he approached the scene, he was restrained. Again, there was testimony that the teacher felt that Scottie R. would have become involved in the fight if he had not been restrained, but such feelings are mere speculation and cannot be used as a basis for determining that Scottie R. was fighting. The only evidence presented was that he was walking in the hallway when he was restrained in the vicinity of a fight. Permanent expulsion is too harsh for such an incident.

When the teacher restrained Derricus H., he was already walking away from the fight. Although the teacher felt that Derricus H. would have rejoined the fight had he not restrained him, his speculations are insufficient to establish conduct. When the teacher began to have an asthma attack, Derricus H. left the room to get help for the teacher rather than rejoining the ongoing fight. The only evidence relating to Derricus H. was that he briefly threw a punch or punches at another student who attacked him. Permanent expulsion is too harsh for such an incident.

As we recently pointed out in Michael C. v. Houston Cnty. Bd. of Educ., Case No. 1992-19 (Ga. SBE, Sept. 10, 1992), while local boards of education need to protect the other students and provide a learning atmosphere, it is the policy of this State to provide an educational

opportunity to all children up to the age of sixteen years and permanent expulsion is an appropriate response only in rare cases. In both of these cases, the Local Board failed to show that permanent expulsion was a reasonable response to the actions of the students.

**PART IV
DECISION**

Based upon the foregoing, the records and the briefs submitted, the State Board of Education is of the opinion that the Local Board's decision was arbitrary and capricious. The Local Board's decision, therefore, is hereby

REVERSED.

This 14th day of April, 1994.

Mr. Brinson, Mrs. King, Dr. Thomas and Mr. Williams were not present.

Richard C. Owens, Chairman
State Board of Education