

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>R.C.S.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	<b>CASE NO. 1994-5</b>
<b>vs.</b>	:	
	:	<b>DECISION</b>
<b>BALDWIN COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	

**PART I  
SUMMARY**

This is an appeal from a decision by the Baldwin County Board of Education (Local Board) to uphold the decision of a Student Disciplinary Tribunal (SDT) to expel R.C.S. (Student) from the Baldwin County School System for the remainder of the 1993-1994 school year because he had a weapon on school grounds. The Student maintains on appeal that the decision of the Local Board was too harsh. The Local Board's decision is sustained.

**PART II  
FACTUAL BACKGROUND**

On November 16, 1993, a loaded .22-caliber rifle was found in the Student's truck, which was parked on school grounds. The Student was sent a notice that a hearing would be held before a SDT on charges the Student was in possession of a weapon on school property. The SDT hearing was held on November 19, 1993. The SDT voted to expel the Student for the remainder of the 1993-1994 school year because he violated the federal Gun-Free School Zone Act of 1990. The Student appealed the decision to the Local Board. Because the recording of the SDT's hearing was inaudible, the Local Board heard the appeal de novo on December 27, 1993.

At the hearing before the Local Board, the Assistant Principal testified that on November 12, 1993, a student approached him and informed him that another student wanted to shoot him. Upon confronting the other student, the student informed the Assistant Principal that he was mistaken in his identification. He told the Assistant principal that on the previous weekend a car chase took place between his car and a car occupied by the Student and two of his friends. During the car chase, the students threw bottles, exchanged obscenities and a gun was fired. The Assistant Principal had given a pass to another student, who was involved in the car chase, to go to the Student's car in the parking lot to get his ID badge. When the Assistant principal and the School Security Officer could not locate the student with the pass, they called for the Student to come to his truck. The Student voluntarily gave the Assistant principal permission to search his truck. A loaded .22-caliber rifle was visible behind the driver's seat.

The Student, his mother, his friend, and his friend's mother, testified that the Student left the gun at his friend's house after they went squirrel hunting on November 6, 1993. On November 11, 1993, his friend's mother told him to take the gun home because they had no

room for it in their gun rack. The Student testified that he forgot to take the gun out of his truck that night and did not realize it was in his truck the next day when he went to school. Evidence was also presented at the hearing that the Student suffers from pernicious anemia which results in short-term memory loss. The Local Board voted to uphold the SDT's decision to expel the Student for the remainder of the 1993-1994 school year because he was in possession of a weapon on school property. A notice of appeal to the State Board of Education was received on January 20, 1994.

### **PART III DISCUSSION**

The Local Board Policy Section I provides in part:

A student shall not supply, possess, handle, use, threaten to use, or transmit any weapon or any other tool or instrument capable of inflicting bodily injury.

On appeal, the Student maintains that the punishment was too harsh.

“The control and management of the public schools constitutionally rests with the county board of education and such control and management will not be interfered with except where that control and management is contrary to law. See. Colson v. Hutchinson. 205 Ga. 559, 67 S.E.2d 764 (1951); Boney v. County Board of Education for Telfair County. 203 Ga. 152 (1947).” Martinius C. v. Griffin-Spalding County Bd. of Educ., Case No. 1992-12 (Ga. SBE, Jul. 9, 1992). “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 the instant case, there was undisputed evidence that the Student had a gun on school grounds and there was no evidence that the Local Board’s decision was arbitrary or capricious.

The Student claims he did not receive adequate notice of the charges against him. The Student bases his allegation on the fact the SDT expelled him for violating the Gun-Free School Zone Act of 1990. The Student and his parents received notice that the SDT hearing was based on charges that he possessed a weapon on school property.

The purpose of the notice letter is to permit a student to present a defense against the charges. In this case, the Student received notice of the charge that he possessed a weapon on campus before he was brought before the Local Board and was able to prepare to defend himself against this charge. Despite the fact that the SDT found that he violated the federal Gun-Free School Zone Act of 1990, the Student had already received notice of the charge of possessing a weapon on school grounds. We, therefore, conclude that the Student received adequate notice to permit him to present a defense against the charge of possession of a weapon on school property and he was not denied due process.

The Student also contends that certain Board members displayed an unfair bias against him. He bases this allegation on the testimony of the Local Superintendent that a student should be expelled if found with a weapon on campus, regardless of the circumstances. Even if the Local Superintendent was biased, such bias cannot be attributed to the Local Board, which made the decision to expel the Student. There was also no evidence to support the Student’s contention that the Chairman of the Local Board was biased against him.

Finally, the Student maintains on appeal that the failure to provide him a transcript of the SDT hearing before the Local Board hearing renders the proceedings void. Because the recording of the SDT hearing was inaudible, the Local Board heard the appeal de novo. The Student thus had an opportunity to examine and cross-examine the witnesses and present his defense before the Local Board. The lack of a transcript may have hindered the Student's ability to impeach some witnesses, but the Student was not placed in a position any different from any other person who appears before the Local Board without the ability to conduct discovery. The Student, therefore, was not harmed by the absence of the transcript from the first hearing.

#### **PART IV DECISION**

Based upon the foregoing, the State Board of Education is of the opinion that there was evidence to support the Local Board's decision; the decision was not an abuse of discretion, there was no evidence of bias, and the Local Board did not commit any procedural errors. The Local Board's decision, therefore, is

SUSTAINED.

This 14<sup>th</sup> day of April, 1994.

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

Richard C. Owens, Chairman  
State Board of Education