

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>MICHAEL A.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	<b>CASE NO. 1994-13</b>
<b>vs.</b>	:	
	:	<b>DECISION</b>
<b>WALTON COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	

This is an appeal by Michael A. (Student) from a January 4, 1994, decision by the Walton County Board of Education (Local Board) to suspend him for the remainder of the 1993-1994 school year for possession of a weapon, a carbon dioxide air gun, on school grounds. The Student claims that the suspension violates the provisions of O.C.G.A. § 20-2-155 to continue a student's education, the decision was inappropriate because he was a model student, and the Local Board failed to consider the mitigating factors involved. The Local Board's decision is sustained.

On December 9, 1993, the Student received a carbon dioxide propelled air gun from another student. He took the air gun with the intention of purchasing it, but his parents refused to give him permission. On December 13, 1993, the Student took the air gun back to school and returned it to the other student.

The Student claims that the Local Board's decision violates the provisions of O.C.G.A. § 20-2-155, which establishes a policy of keeping students in school through the use of alternative schools. While O.C.G.A. § 20-2-155 establishes a policy of keeping students in school, it does not establish a mandate that requires local boards of education to keep students in school when they possess weapons on school grounds. The State Board of Education, therefore, concludes that O.C.G.A. § 20-2-155 does not require reversal of the Local Board's decision.

The Student also claims that the decision is inappropriate because he has been a model student and has never been involved in any disciplinary action before this incident. While a student's previous record is something a local board of education can consider in its deliberations, the record does not control the local board's discretion. As long as the local board's decision remains within the realm of its discretion, the State Board of Education is bound to uphold the decision. "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). The State Board of Education, therefore, concludes that consideration of the Student's previous record does not provide any basis for reversing the Local Board's decision.

The Student also claims the Local Board failed to consider any other mitigating circumstances. Specifically, there was testimony that another student had hit the Student on the head while he was in school, and the Student was fearful of being in school. The record shows that the Student presented evidence of the attack to the Local Board. The Local Board, therefore, considered the circumstances. The State Board of Education, therefore, concludes that the claim of failing to consider mitigating circumstances does not establish any basis for reversing the Local Board's decision.

Based upon the foregoing, the State Board of Education is of the opinion the Local Board's decision was within its discretion and no basis has been shown for reversal. The Local Board's decision, therefore, is

SUSTAINED.

This 12<sup>th</sup> day of May, 1994.

Mr. Billingslea, Mrs. King, Mr. Sessoms and Mr. Williains were not present. Mr. Lathem's seat is vacant due to his resignation effective December 31, 1993.

Robert M. Brinson  
Vice Chairman for Appeals