

STATE BOARD OF EDUCATION

STATE OF GEORGIA

REUBEN A.,	:	
	:	
Appellant,	:	
	:	CASE NO. 1994-28
vs.	:	
	:	DECISION
GWINNETT COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by Reuben A. (Student) from a decision by the Gwinnett County Board of Education (Local Board) to uphold the decision of a Student Disciplinary Tribunal to permanently expel the Student because he threatened another student with a gun while on a bus. The Student claims the Local Board abused its discretion because no harm occurred. The Local Board's decision is sustained.

On January 20, 1994, the Student took a .357-calibre pistol to school. While riding the bus home that afternoon, he placed the gun in another student's back and said he was going to kill him. The pistol was not loaded and the victim was able to exit the bus without incident. Upon exiting, however, he informed the bus driver that the Student had a pistol. The bus driver reported the situation and the local police arrived and arrested the Student. The Gwinnett School System charged the Student with possession of a firearm on school property along with several other charges.

A Student Disciplinary Tribunal hearing was held on February 1, 1994. After hearing the evidence, the Tribunal decided the Student should be permanently expelled from school. The Student appealed to the Local Board, but on March 4, 1994, the Local Board upheld the Tribunal's decision.

On appeal to the State Board of Education, the Student claims the Local Board abused its discretion by permanently expelling him from school because no serious injuries occurred and the decision amounts to the equivalent of a life sentence. The Student cites Lee v. Macon County Board of Education. et al., 390 F.2d 458 (5th Cir. 1974), where the Court stated:

a sentence of banishment from the local educational system is, insofar as the institution has power to act, the extreme penalty, the ultimate punishment. In our increasingly technological society getting at least a high school education is almost necessary for survival. Stripping a child of access to educational opportunity is a life sentence to second rate citizenship, unless the child has the financial ability to migrate to another school or enter private school.

Id. at 460. The Student claims the Local Board should have provided him with other punishment and rehabilitation options.

“A local board of education ... is charged with the responsibility of managing the operation of its schools, and, in matters of discipline, the State Board of Education cannot substitute its judgment for the judgment of the local board. See. Boney v. County Board of Education of Telfair County, 203 Ga. 152 (1947); Braceley v. Burke County Bd. of Ed., Case No. 1978-7.” Joseph M. v. Jasper Cnty. Bd. of Educ., Case No. 1981-40 (Ga. SBE, Feb. 11, 1982). “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-il (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, the Student admitted he possessed the gun and threatened another student. The Local Board is authorized to permanently expel a student. See O.C.G.A. § 20-2-755. The State Board of Education concludes that the Student has not shown that the Local Board abused its discretion.

The Student also claims the Local Board denied him due process because the punishment is not proportionate to the offense. The State Board of Education, however, is of the opinion that the Local Board could find that permanent expulsion is proportionately related to a student threatening another student with a gun. The State Board of Education, therefore, concludes that the Local Board did not deny the Student due process.

Based upon the foregoing, the State Board of Education is of the opinion the Local Board did not abuse its discretion or deny the Student any due process rights. The Local Board’s decision, therefore, is
SUSTAINED.

This 14th day of July, 1994.

Mr. Williams was not present.

Robert M. Brinson
Vice Chairman for Appeals

