

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>TODD G.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	<b>CASE NO. 1994-45</b>
<b>vs.</b>	:	
	:	<b>DECISION</b>
<b>COBB COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	

**PART I**

**SUMMARY**

This is an appeal by Todd G. (Student) from a decision by the Cobb County Board of Education (Local Board) to uphold the decision of a Student Disciplinary Tribunal to permanently expel the Student because he brought a pellet gun on campus. The Student claims the Local Board abused its discretion, the Local Board denied him procedural due process, and the evidence does not support the decision. The Local Board's decision is reversed and remanded.

**PART II**

**FACTUAL BACKGROUND**

On February 11, 1994, the Student, a thirteen-year-old eighth grader, brought a pellet gun to school and then boarded a school bus with the gun for the purpose of showing it to a friend at the friend's house. The assistant principal at the Student's school learned about the incident and questioned the Student on February 12, 1994. The Student admitted possession of the pellet gun.

At the Student Disciplinary Tribunal hearing held on February 24, 1994, evidence was presented that the Student had been disciplined the previous year because he brought a knife on campus. The Local Board's weapons policy provides for permanent expulsion for a second weapons offense. Based upon the Local Board policy, the Student Disciplinary Tribunal voted to permanently expel the Student.

On March 16, 1994, the Local Board upheld the Student Disciplinary Tribunal's decision.

## PART III

### DISCUSSION

On appeal, the Student claims there was no evidence the pellet gun was loaded, or that he had any pellets or gas cartridges, which are necessary for the pellet gun to operate, or that he presented any danger to himself or other students. The Student then claims that permanent expulsion of a thirteen year old for possession of an unloaded pellet gun on school property is so severe that it amounts to an abuse of discretion.

“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 State Board of Education stated in the case of Michael C. v. Houston County Board of Education, Case No. 1992—19 (Ga. SBE, Sep. 10, 1992), that:

[p]ermanent expulsion is a quick and easy answer to the immediate problem. Unfortunately, in most instances, it only creates greater societal problems. The need for an education is critical in our society. Without an education, the chances of the Student being dependent upon society are vastly increased, whether under a welfare system or a penal system. Permanent expulsion may solve a short-term problem, but it results in a longer-term problem.

The issue is whether permanent expulsion is an appropriate penalty under the facts of this case. In the absence of extenuating circumstances permanent expulsion is an extraordinary measure, a measure that has the effect of depriving a student of a free public education.

Given the nature and severity of permanent expulsion, the local board of education bears the burden of justifying such a severe punishment. In justifying the permanent expulsion the local board must consider other disciplinary measures such as suspension, other models for delivery of educational services such as alternative programs, and the reason why no alternatives are appropriate.

In the instant case, local policy called for permanent expulsion for a second weapons offense. The Student’s offense was that he brought a pellet gun to school and then boarded a school bus with the gun. There were no pellets or any CO<sub>2</sub> cartridges that are needed to propel the pellets.

There is no question that a pellet gun can be used as a weapon and a CO cartridge and ammunition may be hidden. Arguably, the presence of a pellet gun is a threat per se. However, apart from the presence of the pellet gun, there were no facts or circumstances in the record showing that anyone was endangered, or that there was a potential for danger.

More importantly, the record does not reflect consideration by the Local Board of other disciplinary measures, such as long-term suspension, or consideration of removing the Student from the regular classroom environment and placing the Student in an alternative program. The State Board of Education concludes that permanent expulsion is too severe under the circumstances.

PART IV

DECISION

Based upon the foregoing, the State Board of Education is of the opinion that the Local Board abused its discretion in permanently expelling the Student for possessing a pellet gun on campus and on a school bus. The Local Board's decision, therefore, is hereby REVERSED and REMANDED for a determination by the Local Board consistent with this decision.

This 8<sup>th</sup> day of September, 1994.

Messrs. McGlamery, Sessoms and Williams were not present.

Robert M. Brinson  
Vice Chairman for Appeals