

STATE BOARD OF EDUCATION

STATE OF GEORGIA

J. M.,	:	
	:	
Appellant	:	
	:	
vs.	:	CASE NO. 2003-34
	:	
DOUGLAS COUNTY	:	
BOARD OF EDUCATION	:	
	:	DECISION
Appellee.	:	

This is an appeal by J. M. (Student) from a decision by the Douglas County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel her for the remainder of the 2002-2003 school year with the option of attending an alternative school. The tribunal found the Student guilty of making terroristic threats. The Student claims that her rights under the Individuals With Disabilities Education Act, 20 U.S.C. § 1400, *et seq.* (IDEA) were violated and that the Local Board did not have jurisdiction to take action against her because she did not violate any of the Local Board's rules. The Local Board's decision is sustained.

In October 2002, a female student, A. H., reported to her assistant principal that the Student had threatened to kill her and she was afraid for her safety. A. H. gave the assistant principal some notes written by the Student that discussed killing A. H. The notes indicated that A. H. was involved in a feud with members of a gang and the gang had asked the Student to kill A. H., but the Student and A. H. planned to fake a shooting or a stabbing. The notes were exchanged on the school campus.

Upon learning about the notes, the assistant principal and the principal questioned the Student. She admitted she had written the notes and acknowledged that the notes could be considered threatening. The Student was charged with making terroristic threats and a hearing before a student disciplinary tribunal was scheduled.

The Student was not receiving services under IDEA, but the Student's mother had asked for an evaluation. The Student was, however, being served under Section 504 of the Rehabilitation Act of 1973 because she had been diagnosed with attention deficit hyperactive disorder, but the plan provided that the Student was to be treated like any other student in any disciplinary matters. Before the disciplinary tribunal met, a committee met to determine if the Student's conduct was related to her disorder. The committee decided that there was no relationship between the disorder and the conduct.

The Local Board's policy regarding terroristic threats provides:

A student commits the offense of terroristic threat when he/she threatens to commit violence against person(s) or damage to property, which would cause a reasonable person to feel terrorized or causes the evacuation of a building, school assembly, school bus or otherwise causes serious disruption of a school or school activity.

Douglas County School System Policies and Procedures, HIGH SCHOOL DISCIPLINE CODE, Policy JD-R(4), June 17, 2002.

The Student claims that the Local Board lacked jurisdiction to discipline her because her conduct occurred off campus and was not related to a school activity. She claims that the notes did not contain any threats, and if there were any threats in any telephone calls, the calls occurred off campus and were unrelated to any school activity.

“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 boards 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, the notes were written on campus and outlined that the Student was supposed to shoot A. H. There was also evidence that A. H. was alarmed because of the notes. The State Board of Education, therefore, concludes that there was evidence of a threat “to commit violence against” another person, and that “a reasonable person [could] feel terrorized” because of the notes.

The Student also claims that she was denied her rights under IDEA because the school system failed to give her a timely evaluation after her mother asked for an evaluation. The State Board of Education, however, does not have jurisdiction to consider questions relating to IDEA, which, in conjunction with State law, creates specific steps to be followed before a student is eligible for the benefits of IDEA. *See, 20 U.S.C. § 1415(b)(2); Rules and Regulations of the State of Georgia, § 160-4-7- 18.* Questions concerning compliance with IDEA are heard by the Office of State Administrative Hearings, with the right to appeal to a superior court or a federal district court. *Rules and Regulations of the State of Georgia, § 160-4-7-. 18(e) and (f).* The Student's claim of violation of IDEA, therefore, cannot be considered by the State Board of Education.

Based upon the foregoing, it is the opinion of the State Board of Education that there was evidence to support the Local Board's decision. Accordingly, the Local Board's decision is hereby
SUSTAINED.

This _____ day of May 2003.

Wanda T. Barrs
Chairperson, State Board of Education