

STATE BOARD OF EDUCATION

STATE OF GEORGIA

J. G.	:	
	:	
Appellant,	:	
	:	CASE NO. 1996-40
vs.	:	
	:	DECISION
COLUMBIA COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by J.G. (Student) from a decision by the Columbia County Board of Education (Local Board) to uphold the decision of a Student Disciplinary Tribunal to suspend him for the remainder of the 1995-1996 school year and the first semester of the 1996-1997 school year, with the opportunity to attend an alternative school during the first semester of the 1996-1997 school year. The Tribunal's decision was based on charges that the Student had "multiple offenses." The Student claims that the decision was too harsh and he was denied due process because the Student Disciplinary Tribunal did not permit a witness to testify on his behalf. The Local Board's decision is reversed.

The Public School Disciplinary Tribunal Act provides that a student shall have the right to present evidence and to examine and cross-examine witnesses. O.C.G.A. § 20-2-754(a). In this case, the tribunal did not permit the Student to present a witness, his only one, whose uncontroverted testimony would have established that the Student did not commit the offense he was charged with committing.¹ The State Board of Education concludes that the Student was denied procedural due process.

The burden of proof rests upon a local board to establish that a student has violated some policy established by the local board. The record in this case shows that the Local Board

failed to carry its burden of proof. The letter written to the Student's parents shows that the Student was charged with "multiple offenses," but the policy was never introduced in evidence. The record shows that the Student was involved in 20 disciplinary matters during the 1995-1996 school year, but there was no evidence to establish the standard by which the Student was judged. In addition, there was no evidence to show what policy the Student violated to cause the

¹ Since the record has so little evidence, it is not possible to determine whether the Student was charged with smoking on campus, possessing cigarettes on campus, or possessing drug paraphernalia on campus.

charges to be brought against him. The members of the Tribunal lectured the Student during the entire hearing, rather than obtaining any evidence or permitting the Student to present any defense.

The Student submitted a brief in support of his arguments, but the Local Board failed to submit a brief or request oral argument. Under these circumstances, we conclude that the Local Board has defaulted to the Student's request for reversal of the Local Board's decision.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board denied the Student procedural due process, failed to carry its burden of proof and has defaulted to the Student's request for reversal. Accordingly, the Local Board's decision is reversed and the Local Board is directed to re-admit the Student in his regular classes.

This 12th day of September, 1996.

Ms. Julie D. Keeton and Mr. A. J McGlamery were not present. The seat for the eleventh District is vacant.

Robert M. Brinson
Vice Chairman for Appeals