

of Conduct and 48 were suspended or expelled from their regular classrooms as a result.

3. Defendants, who are responsible for the administration of PCS, routinely fail to employ fundamentally fair procedures to determine whether a student has violated the Code of Conduct prior to excluding the student from the classroom, as required by their own policy and the United States Constitution.
4. Defendants' failure to implement fair disciplinary processes

II. JURISDICTION AND VENUE

9. To initiate judicial review of a school board's disciplinary decision, a complaint or petition must be filed alleging "facts sufficient to establish the subject-matter jurisdiction and venue of the juvenile court." Ala. R. Juv. P. 12(A).

10. This

15. Defendants: The Pike County Board of Education is a local educational agency in Troy, Alabama, which provides the general administration and supervision of the public schools and educational interests for all schools in PCS, including GHS. Earnest Green, Greg Price, Justin Davis, Linda Steed, Clint Foster, and Charles Wilkes are members of the Board and are named in their representative capacities.

IV. FACTUAL ALLEGATIONS

24. GHS did not investigate whether R.M. possessed or used marijuana by requesting R.M. to submit to drug testing, interviewing his teachers about his behavior in class, or searching his person or his car.
25. Still, R.M. was charged with violating Rule 4.5 of the Code of Conduct, which prohibits the sale, purchase, use, or possession of illegal drugs or alcoholic beverages at school. R.M. was indefinitely suspended pending a hearing before the Superintendent's Disciplinary Council ("Disciplinary Council").
26. Although R.M. received written notice that he had been suspended and charged with violating Rule 4.5 of the Code of Conduct, the notice contained no additional detail about the specific acts that resulted in the alleged violation.
27. The notice contained no information about the potential consequences that R.M. faced; however, according to the Code of Conduct, expulsion is a potential consequence for any Rule 4 violation.
28. On November 22, 2019, after receiving notice of the allegations against him, R.M. immediately and voluntarily submitted to a drug test.
29. The drug test indicated that R.M. had not used marijuana or any other tested substance for thirty days.
30. R.M. was suspended for twelve days before his disciplinary hearing was held.

Board Policy

31. The Board's policy guarantees procedural protections to any student facing disciplinary action for alleged violations of the Code of Conduct.
32. At a minimum, prior to being disciplined for an alleged violation of the Code of Conduct, students are entitled to receive notice of the charges against them, an

33. Per the Board's policy, the degree of procedural

40. GHS presented no evidence to establish that R.M. was with another student who used or possessed any illegal drug on the day in question.
41. GHS presented no evidence to establish that any illegal drugs had been found on R.M., on any student who had been with R.M., or in a car on the day in question.
42. GHS presented no evidence to establish that R.M. had been or appeared to be under the influence of drugs at school on the day in question.
43. The only evidence presented at R.M.'s hearing relevant to whether R.M. had used or possessed illegal drugs in violation of Rule 4.5 was R.M.'s own testimony and prior statement, in which R.M. adamantly denied the allegations against him.
44. R.M.'s testimony was consistent with his prior statement to Principal Britford: he had accompanied another student to her car, but he returned to school immediately after she showed him an object that appeared to be drug paraphernalia.
45. The Disciplinary Council acknowledged that the record lacked evidence to support allegations that R.M. had used or possessed illegal drugs at GHS. One member of the Disciplinary Council, Mark Heard, told R.M., "only you know what did or didn't happen in that vehicle . . . you dodged a bullet here because we didn't have the proof that we need."
46. The Disciplinary Council commented that there were "drugs involved one way or another," that R.M. was "in the wrong place at the wrong time," and that there was "a lot going on that shouldn't have been going on," but the Disciplinary Council did **not** find that R.M. used or possessed illegal drugs in violation of Rule 4.5.
47. In finding that there were "drugs involved," the Disciplinary Council relied on inadmissible hearsay outside of the hearing record not subject to cross-examination.
48. Donella Carter, a member of the Disciplinary Council, told R.M. that the Disciplinary Council "already [knew] that smoking was going on in the car." However, there was

no evidence in the hearing record to establish that any student had smoked in a car on the date in question. Ms. Carter did not reveal the source of this “knowledge.”

49. R.M.’s testimony was uncontested. Yet, Disciplinary Council Member Carter told R.M. that his testimony did not “match the other stories that [the Disciplinary Council previously] heard.”

50. R.M. was denied the opportunity to cross-examine the unidentified persons whose “stories” the Disciplinary Council apparently heard outside of R.M.’s disciplinary hearing and relied upon.

51. Despite admitting that it lacked evidence to find that R.M. had used or possessed marijuana, the Disciplinary Council inexplicably found that R.M. violated the Code of Conduct without articulating which specific rule R.M. violated.

52. The Disciplinary Council reached a predetermined disciplinary decision based on information obtained outside of R.M.’s hearing.

53. The Disciplinary Council excluded R.M. from GHS through the end of the 2019-2020 school year, with the option to attend PCS’ alternative school program.

The Appeal

54. R.M. timely appealed the decision of the Disciplinary Council to the Board.

55. The Board heard R.M.’s appeal on January 13, 2020.

56. R.M. was the only witness to testify at the appeal hearing before the Board. R.M. apologized for his decision to skip class and reiterated that he had not possessed or used marijuana.

57.

58. After adjourning to deliberate, the Board consulted with the Disciplinary Council outside the presence of R.M. and his parent. The Board refused R.M.'s request to be present while the Board consulted with the Disciplinary Council.

59. Although GHS presented no evidence or witnesses at the Board hearing, the Board

Count 1: Arbitrary and Capricious Decision

79. Students have a right to avoid “unfair or mistaken exclusion from the educational process, with all its unfortunate consequences.” *Goss v. Lopez*, 419 U.S. 565, 574 (1975).

80.

88. R.M. was facing serious disciplinary action as a result of allegedly violating Rule 4.5 of the Code of Conduct and was therefore entitled to all procedural protections outlined by the Board's policy.
89. Defendants failed to provide R.M. with notice of the charges against him and an opportunity to be heard prior to suspending him for twelve days, as guaranteed by the Board's policy.
90. Defendants failed to provide R.M. with an explanation of the evidence against him, as guaranteed by the Board's policy.
91. Defendants failed to provide R.M. with the opportunity to cross-examine witnesses as guaranteed by the Board's policy.
- 92.

97. “[W]hen the basic constitutional rights of students are at issue, [courts] cannot avoid considering these constitutional rights when they are infringed by board action. The authority vested in school boards and officials to maintain order and discipline in schools must be exercised within constitutional bounds.” *Dothan City Bd. of Educ. v. V.M.H.*, 660 So. 2d 1328, 1330 (Ala. Civ. App. 1995).
98. While courts may give broad discretion to discipline decisions made by a local board of education, the deferential standard is trumped when school boards violate due process. *Monroe Cnty. Bd. of Educ. v. K.B.*, 62 So. 3d 513, 516 (Ala. Civ. App. 2010).
99. Defendants failed to implement fundamentally fair procedures to determine whether R.M. committed any alleged misconduct prior to infringing on his right to an education.
100. Defendants failed to provide R.M. with notice of the charges against him.
101. Defendants failed to provide R.M. with an explanation of the evidence against him.
102. Defendants failed to provide R.M. with an opportunity to be heard.
103. Defendants suspended R.M. for twelve days before providing him with a disciplinary hearing.
104. Defendants refused to consider evidence presented by R.M. in his defense.
105. Defendants reached a predetermined conclusion based on information obtained outside of R.M.’s hearing and not subject to review by R.M.
106. Defendants failed to independently consider the merits of R.M.’s case to determine whether he had violated the Code of Conduct as alleged.
107. Defendants deprived R.M. of the opportunity to confront and cross-examine adverse witnesses.
108. Defendants arbitrarily denied R.M. the protections guaranteed by Board policy.

109. Defendants failed to establish that R.M. violated the Code of Conduct prior to excluding him from GHS.

110. Defendants disciplined R.M. despite a lack of evidence substantiating the specific allegations against him.

111. Defendants' failure to adhere to the minimum procedures required by the Due Process Clause resulted in an abuse of discretion and an arbitrary deprivation of R.M.'s right to a public education.

VI. PRAYER FOR RELIEF

R.M. respectfully requests that this Court:

- i. Find that Defendants' disciplinary decision improperly denied or infringed R.M.'s rights;
- ii. Reverse Defendants'