

STATE BOARD OF EDUCATION

STATE OF GEORGIA

FABIYAN B.,	:	
	:	
Appellant,	:	
vs.	:	
	:	CASE NO. 1991-20
DEKALB COUNTY	:	DECISION
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

Fabiyán B. (“Student”) appeals to the State Board of Education from a decision by the DeKalb County Board of Education (“Local Board”). The Local Board voted to uphold the decision of a Student Evidentiary Hearing Committee to suspend the Student for the first quarter of the 1991-1992 school year with permission to attend the DeKalb Alternative School. The Local Board also placed the Student on probation until he graduates. The Student Evidentiary Hearing Committee found the Student guilty of violating the Local Board’s rule against fighting. The Student claims that he was denied an opportunity to defend himself. The decision of the Local Board is sustained.

The Student claims that the Local Board’s decision was too harsh and that he was not permitted to tell his version of what occurred. He also claims that he would have had an attorney present at the hearing if he had known that he needed one. Additionally, he claims that this is the first time that he has been involved in a disciplinary incident and the initial ten day suspension he served before the hearing was sufficient punishment.

The standard for review by the State Board of Education is that if any evidence exists 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 (1978); Antone v. Greene County Bd. of Educ., Case No. 1976-11 (St. Bd. of Ed., 1976).

The Student testified at the hearing. There is no evidence that he was unable to make a statement or tell his story. Additionally, he was permitted to question the other witnesses. The hearing officer always asked if there were any other questions before releasing the witnesses.

The testimony of the witnesses established that the Student and three others were involved in a fight immediately after leaving a school bus. Two witnesses testified that the Student struck the victim from behind. The Student claimed that he was trying to stop the fight.

After the school authorities investigated the incident, the Student was given written notice that the matter would be heard by a student evidentiary hearing committee. The notice also told him that he had the right to have an attorney present and the right to cross-examine witnesses.

Based upon the record, we conclude that the Student had an opportunity to tell his version of what occurred. We also conclude that he was informed that he had the right to have an attorney present but he waived that right. There was evidence available to support the Student Evidentiary Hearing Committee's decision and the Local Board's decision.

The Local Board has the authority to assign the Student to an alternative school and to place him on probation. There is no evidence that the Local Board abused its authority.

It is the opinion of the State Board of Education that there was evidence to support the Local Board's decision and the Local Board did not abuse its authority by assigning the Student to an alternative school and placing him on probation. The Local Board's decision, therefore, is

SUSTAINED.

This 12th day of September, 1991.

Mr. Brinson, Mr. Foster, and Dr. King were not present.

Richard C. Owens
Acting Vice Chairman for Appeals