

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>NETAYA C.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	<b>CASE NO. 1994-22</b>
<b>vs.</b>	:	
	:	<b>DECISION</b>
<b>CLAYTON COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	

This is an appeal by Netaya C. (Student) from a decision by the Clayton County Board of Education (Local Board) to uphold the decision of a Student Disciplinary Tribunal to permanently expel the Student from all regular schools in Clayton County and to assign her to an alternative school because she attacked her locker mate in an assistant principal's office and cursed and struggled with three administrators. The Student claims that the Local Board's decision is too harsh and unrelated to the Student's actions. The Local Board's decision is sustained.

The Student was in the eleventh grade. On December 10, 1993, the Student's locker mate went to the assistant principal's office to complain about a dispute she was having with the Student. The Student had taken all of the locker mate's books from their locker and dumped them into a trashcan. After hearing the locker mate's story, the assistant principal left the locker mate with another assistant principal in an adjoining office and went to find the Student to hear her story. After entering the assistant principal's office, the Student espied her locker mate in the other office. Lunging across the short distance between the offices, the Student attacked her locker mate and tried to choke her. When the assistant principals intervened, the Student began shouting obscenities and struggled with the assistant principals.

A security officer was dispatched to the assistant principals' offices and the Student was partially restrained. The Student then grabbed a telephone and threw it across the room and said she was going to attack her locker mate. She then tried to exit the office, but the security officer restrained her, handcuffed her and arrested her.

The Student was charged with violating the Local Board's policy against inflicting bodily injury to any person and the Local Board's policy against showing disrespect and using vile and vulgar language directly against a school employee. A Student Disciplinary Tribunal hearing was held on January 5, 1994. The Tribunal found the Student guilty of the charges and permanently expelled her from all regular Clayton County schools and referred her for possible placement in an alternative school, a GED program or in evening school.

On February 7, 1994, the Local Board sustained the Tribunal's decision. The Student then appealed to the State Board of Education. On appeal, the Student claims that the punishment of permanent expulsion is grossly disproportionate to the offense and wrongfully denies her a constitutional right to an education.

“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 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, 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). “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). If, however, there is a shocking disparity between the offense and the penalty, a local board of education’s decision can be reversed. See, Lee v. Macon County Board of Educ., 490 F.2d 458, 460 (5th Cir., 1974). A shocking disparity exists when a student is permanently expelled for a fistfight that is unplanned, does not involve any weapons, and the blows are not vicious. See, Michael C. v. Houston Cnty. Bd. of Educ., Case No. 1992-19 (Ga. SBE, Sep. 10, 1992).

In the instant case, the Local Board permanently expelled the Student only from its regular schools; it has not denied the Student an opportunity to obtain an education, but, instead, has permitted her to enroll in an alternative school. If the Student desires, she will be able to continue her education and obtain a degree. The State Board of Education, therefore, concludes that there is not a shocking disparity between the offense and the discipline imposed.

The Local Board had the authority to expel the Student because she physically attacked another student. See, O.C.G.A. § 20-2-751 et seq. The Local Board, therefore, did not abuse its discretion.

Based upon the foregoing, the State Board of Education is of the opinion that the Local Board had the power and authority to expel the Student from its regular schools with the opportunity to attend an alternative school or otherwise complete her degree requirements. The Local Board’s decision, therefore, is  
SUSTAINED

This 14<sup>th</sup> day of July, 1994.

Mr. Williams was not present.

Robert M. Brinson  
Vice Chairman for Appeals

