

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>CLAY 0.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	<b>CASE NO. 1994-55</b>
<b>vs.</b>	:	
	:	<b>DECISION</b>
<b>HARALSON COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	

This is an appeal by Clay 0. (Student) from a decision by the Haralson County Board of Education (Local Board) to uphold, without a hearing, the decision of the Student's assistant principal to suspend him for three days following an altercation on a school bus. The Student claims that he did not fight back and merely covered his head with his arms and hands as the other student hit him. Since the Local Board did not conduct a hearing, the appeal is dismissed because the State Board of Education does not have jurisdiction under the provisions of Q.C.G.A. § 20-2-1160.

Under Goss v. Lopez 419 U.S. 565, 95 S.Ct. 729, 42 L.Ed.2d 725 (1975), due process requires a hearing if a student is to be suspended for more than ten days. If a student is to be suspended or otherwise disciplined for less than ten days, all that is required is that the administration (1) give the student notice of the charges, and (2) obtain the student's story if the student denies the charges.

O.C.G.A. § 20-2-1160 provides that the State Board of Education can hear appeals from the decisions of local boards of education when the local board of education sits as a tribunal to decide a question or controversy involving the interpretation or administration of school law. In the absence of a hearing by the local board of education, the State Board of Education lacks jurisdiction to review the local board's decision. Boney v. County Board of Education of Telfair County, 203 Ga. 152 (1947).

The only record in this appeal is the minutes of the Local Board of Education meeting on May 31, 1994. The Local Board heard the Student and his parents and the principal. The Local Board then voted to uphold the suspension, which had already been served, and denied the Student an opportunity to make up the tests he missed while on suspension.

According to the Student's brief, he was on a school bus on May 18, 1994, when another student came aboard and began beating him. The Student claims he did not attempt to fight back or strike the other student. When the school bus returned to the high school, the Student reported the incident to the assistant principal. The assistant principal investigated the incident and three students apparently told him that the Student hit the other student or fought back. The Student was suspended for three days, during which he missed some year-end examinations.

While the Student makes a compelling case in his brief that the assistant principal conducted a haphazard investigation and he was unfairly punished, there is nothing in the record to substantiate his claims. The State Board of Education cannot consider any evidence that is not contained in the record. "The control and management of the public schools constitutionally rests

with the county board of education and such control and management will not be interfered with except where that control and management is contrary to law. See. Colson v. Hutchinson 205 Ga. 559, 67 S.E.2d 764 (1951); Boney v. County Board of Education for Telfair County. 203 Ga. 152 (1947) .“ Martinius C. v. Griffin-Spalding County Bd. of Educ., Case No. 1992-12 (Ga. SBE, Jul. 9, 1992). In this case, the investigation made by the assistant principal satisfied the Student’s due process rights and there is no requirement for the Local Board to conduct a hearing that would permit the State Board of Education to have jurisdiction to review the Local Board’s decision.

The Local Board’s decision, therefore, is  
DISMISSED.

This 10th day of November, 1994.

Mr. Sessoms was not present.

Robert M. Brinson  
Vice Chairman for Appeals