

STATE BOARD OF EDUCATION

STATE OF GEORGIA

S. K.,	:	
	:	
	:	
Appellant,	:	
	:	CASE NO. 1996-62
vs.	:	
	:	DECISION
BACON COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by S. K. (Student) from a decision by the Bacon County Board of Education (Local Board) to permanently expel him because he repeatedly struck a female student in the lunchroom while on probation because of an unrelated incident. The Student claims that the Local Board's decision constituted an abuse of discretion because he was merely defending himself after the female student struck him in the face and the Local Board failed to consider alternative disciplinary measures. The Local Board's decision is sustained.

On September 23, 1996, the Student, who is 17 years old, was in the lunchroom eating with a female student. The two students began a friendly conversation, but the female student took offense with some sexual comments made by the Student. At the time, the Student was under probation for an incident that happened at the end of the previous school year. The Student testified that he removed himself from the situation and was putting his tray back when someone yelled at him. He turned around and the female student struck him in the face. The Student then hit the female student several times with his fist and attempted to kick her. When teachers attempted to intervene, the Student still attempted to strike the female student.

A student disciplinary tribunal met on September 25, 1996, to consider the charge of fighting. Evidence was presented that during the four school terms that the Student was enrolled in Bacon County High School, he has been involved in numerous incidents that required disciplinary measures. Most of the incidents involved inappropriate classroom conduct and chronic tardiness, but there were also two other incidents of fighting, an incident where he called a teacher a "crazy bitch," and disruptive activity on the bus. Between September 2, 1993, and September 23, 1996, there were 59 disciplinary incidents entered in the Student's record. Based upon this evidence, the student disciplinary tribunal recommended permanent expulsion. The Local Board upheld the tribunal's recommendation. The Student then appealed to the State Board of Education.

The Student claims he was merely acting in self-defense. The tribunal and the Local Board, however, could find that the Student's actions did not constitute self-defense because he repeatedly struck the other student and continued to try to strike her after the teachers intervened. The State Board of Education concludes that the Local Board did not err in rejecting the Student's claim of self-defense.

The Student next claims that his due process rights were violated because the Local Board failed to refer him for student support services as provided in O.C.G.A. § 20-2-764 et seq. The record, however, does not support the Student's claim. O.C.G.A. § 20-2-765 requires a student's parent or guardian to be notified if a student is identified as a chronic disciplinary problem. O.C.G.A. § 20-2-766 provides that the student's parent or guardian will be invited to devise a behavioral correction plan before a student is re-admitted to school from an expulsion or suspension. The record shows that the school invited the Student's guardian to attend conferences, but the guardian did not respond. In addition, the school system used counseling, in-school suspensions, and out-of-school suspensions to attempt to correct the Student's behavior.

The State Board of Education, therefore, concludes that the Local Board followed the requirements of O.C.G.A. § 20-2-764 et seq. 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. Telfair County Board of Education, 203 Ga. 152 (1947); Braceley v. Burke County Board of Ed., Case No. 1978-7; Joseph M. v. Jasper County Board of Educ., Case No. 198140 (Ga. SBE, Feb. 11, 1982). The expulsion of a student is permitted under the provisions of O.C.G.A. § 20-2-755. In this case, the Local Board considered alternative courses of action before deciding to expel the Student. The Local Board does not operate an alternative school for its students. The State Board of Education, therefore, concludes that the Local Board did not abuse its discretion.

Based upon the foregoing, it is the opinion of the State Board of Education that there was evidence to support the Local Board's decision, the Local Board did not abuse its discretion, and the Student's due process rights were not denied. The Local Board's decision, therefore, is SUSTAINED.

This 13th day of February, 1997.

Dr. Bill Grow was not present.

Larry Thompson
Vice Chairman for Appeals