

STATE BOARD OF EDUCATION

STATE OF GEORGIA

J. R. N.,	:	
	:	
Appellant,	:	
	:	CASE NO. 1998-7
vs.	:	
	:	DECISION
GRIFFIN-SPALDING COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by J. R. N. (Student) from a decision by the Griffin-Spalding County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to assign him to an alternative school for ninety school days after finding him guilty of causing, or threatening to cause, physical injury to a teacher and disregarding directions and commands. The Student claims that he was denied both procedural and substantive due process, that the Local Board's decision is contrary to the law and facts of the case, the decision is legally inconsistent, the evidence does not sustain the Local Board's finding, the Local Board failed to consider the Student's conduct as a simple effort to recover his property, and the decision is unduly harsh. The Local Board's decision is sustained.

On October 31, 1997, the Student, a tenth-grader, was walking in the hail at the end of the school day wearing a Halloween mask that covered his entire face. A teacher asked him to remove the mask, but he refused. The teacher then reached up and took the mask from the Student's head. The Student demanded the mask back and, when the teacher refused, the Student began grabbing for the mask. The Student finally grabbed the mask and gripped the teacher's wrist inside the mask. The teacher moved to another teacher's room to ask for help. The second teacher told the Student three times to let go of the teacher's wrist. The Student finally let go of the teacher's wrist and the mask.

The Student was charged with violating Rule 3, Assault or battery; Rule 4, Physical injury caused, or threatened to be caused; Rule 8, Disregard of directions or commands, and Rule 11, Additional regulations. *After* a hearing on December 3, 1997, a student disciplinary tribunal found the Student guilty of all the charges and assigned him to an alternative school for 90 school days. When the Student appealed to the Local Board, the Local Board found that there was insufficient evidence to sustain the charges under Rule 3 and Rule 11, but it found sufficient evidence to sustain the remaining charges and affirmed the decision to assign the Student to an alternative school for 90 school days. The Student then appealed to the State Board of Education.

Most of the Student's claims of error revolve around the Student's argument that the Local Board's decision was inconsistent because Rule 3 and Rule 4 are same; Rule 4 is simply a restatement of Rule 3, and if the Student did not violate Rule 3 then he could not have violated Rule 4. Rule 3 provides that a "student shall not commit an assault or a battery upon any teacher ...Rule 4 provides:

A student shall not cause, or attempt to cause physical injury, or behave in such a manner as could reasonably be apprehended to cause an assault, battery or physical injury, to a teacher ...

The Local Board argues that Rule 3 is intended to cover criminal assault and battery, which requires a violent injury or fear of a violent injury under O.C.G.A. § 16-5-20. Rule 4, however, does not require criminal conduct. Instead, it covers behavior that can reasonably be apprehended to cause an assault, batter, or physical injury. The Local Board argues that in the instant case there was an apprehension of physical injury and, in fact, there was physical injury because the Student hurt the teacher's wrist when he grabbed it as they struggled for possession of the mask.

It was not inconsistent for the Local Board to find that criminal conduct was not involved, but still find that the conduct could cause physical injury to a teacher. A local board can have rules proscribing various levels of egregious conduct. Thus, the lower level of offense, Rule 4 in this instance, would cover the higher level of offense, Rule 3 in this instance, but the higher level of offense would not cover all the lower level offenses.

"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. 199 1-14 (Ga. SBE, Aug. 8, 1991). In the instant case, there was evidence that the Student refused the teacher's directive to remove the mask and then grabbed and hurt the teacher's wrist as he attempted to recover the mask. The State Board of Education, therefore, concludes that the Student was not denied substantive or procedural due process, that the Local Board's decision was not contrary to the law and facts of the case, and the evidence sustained the Local Board's decision.

The Student also argues that the teacher's taking of the mask was unlawful. Although the Student cites the Griffin High School Student-Parent Handbook and the policy regarding the seizure of student property, he failed to point out why the teacher's taking of the mask was unlawful. The State Board of Education, therefore, concludes that this claim of error is without merit.

The Student also claims that the punishment was too severe because he was simply involved in a “tug of war” with the teacher and there was never any intent to cause any harm. “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 City. Bd. of Educ.*, Case No. 198 1-40 (Ga. SBE, Feb. 11, 1982). The Local Board has the authority to assign the Student to an alternative school. If a student assaults a teacher, in any manner, then the student must expect consequences. In the instant case, the Local Board’s policy notified the Student that expulsion was a possible consequence of his actions. The State Board of Education, therefore, concludes that the disciplinary measure imposed was not too harsh.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board did not deny the Student procedural or substantive due process, the decision was not inconsistent, there was evidence to sustain the Local Board’s decision, and the punishment imposed was not too harsh. Accordingly, the Local Board’s decision is SUSTAINED.

This 14th day of May 1998.

Larry Thompson
Vice Chairman for Appeals